

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Jocelyn Newman, Circuit Court Judge

RECEIVED

FEB 11 2019

SC Court of Appeals

Appellate Case No. 2018-002275

Shriners Hospitals for Children; Dorraine Lester;
Fred Townsend; and Howard Townsend

Respondents,

v.

Wells Fargo Advisors, LLC; and Jessie Rowe Faircloth

Appellants.

APPELLANTS' MEMORANDUM ADDRESSING THE ISSUE OF APPEALABILITY

Stephen M. Cox (SC Bar No. 12263)
Brian L. Church (SC Bar No. 80359)

ROBINSON, BRADSHAW & HINSON, P.A.
202 East Main Street, Suite 201
Post Office Drawer 12070
Rock Hill, South Carolina 29731
(803) 325-2900

ATTORNEYS FOR APPELLANTS

Defendant-Appellants Wells Fargo Advisors, LLC and Jessie Rowe Faircloth (“Defendants”) appeal from a series of orders denying their motion to compel arbitration. Both federal and state law provide an immediate right of appeal when a trial court denies an application to compel arbitration. *See* 9 U.S.C. § 16(a)(1)(A) (“An appeal may be taken from . . . an order (a) refusing a stay of any action under section 3”); S.C. Code Ann. § 15-48-200(a)(1) (“An appeal may be taken from . . . [a]n order denying an application to compel arbitration made under § 15-48-20.”). Defendants timely filed a motion to compel arbitration within thirty days of service of the summons and complaint pursuant to the South Carolina Uniform Arbitration Act and the Federal Arbitration Act (“FAA”). The court denied the motion by Form 4 Order on August 2, 2018, entered a formal written order on October 24, 2018 and denied Defendants’ timely motion to reconsider on November 30, 2018. Defendants appeal from these orders pursuant to federal and state law expressly permitting such appeals.

I. RELEVANT PROCEDURAL BACKGROUND

On January 2, 2018, Plaintiffs Shriners Hospitals for Children, Dorraine Lester, Fred Townsend, and Howard Townsend served their Summons and Complaint on Defendants Wells Fargo Advisors, LLC (“WFA”) and Jessie Rowe Faircloth. (January 2, 2018 Acceptances of Service, Appx. 24, 25.¹) On January

¹ Cited materials from the trial court are included appendix attached hereto.

31, 2018, WFA and Faircloth timely served and thereafter filed their Motion to Compel Arbitration and to Dismiss or, in the Alternative, Stay Action (hereinafter, “Motion to Compel Arbitration”) and a supporting affidavit. (Motion to Compel Arbitration, Appx. 26; Affidavit of Michele R. Pevehouse, Appx. 31.) The Motion to Compel Arbitration specifically cited the applicability of both the FAA and the South Carolina Uniform Arbitration Act and further sought dismissal pursuant to Rule 12 of the South Carolina Rules of Civil Procedure. WFA and Faircloth contend that all claims against them should be arbitrated pursuant to the terms of written arbitration agreements.

In their Complaint and Amended Complaint, Plaintiffs claim to be disappointed third-party beneficiaries of a now-deceased WFCS² client, Kathlyn Leaphart. Ms. Leaphart, first opened an account with WFCS’s predecessor in 1999. (Aff. of Michelle Pevehouse ¶¶ 8-9, Appx. 32.) At the time, Ms. Leaphart signed a binding arbitration agreement, requiring her to arbitrate regarding “ANY TRANSACTION OR THE CONSTRUCTION, PERFORMANCE OR BREACH OF THIS OR ANY OTHER AGREEMENT BETWEEN US, WHETHER ENTERED INTO PRIOR, ON OR SUBSEQUENT TO THE DATE HEREOF” (Pevehouse Aff. Ex. B, p. 28, Appx. 70.)

² On or about November 11, 2016, Wells Fargo Advisors, LLC changed its name to Wells Fargo Clearing Services, LLC (“WFCS”). (Pevehouse Aff. ¶ 8, Appx. 32.)

Ms. Leaphart died in July 2015. (Compl. ¶ 6, Appx. 17.) Following her death, each of the Individual Plaintiffs opened accounts with WFCS and executed separate account agreements that contained an express provision requiring the arbitration of

all controversies or disputes which may arise between [Plaintiffs] and [WFCS], including controversies or disputes with [WFCS's] clearing agent (collectively, "us"), concerning any transaction or the construction, performance, or breach of this Agreement or any other agreement between us, whether entered into prior to, on, or subsequent to the date of this Agreement, **including any controversy concerning whether an issue is arbitrable**

(Pevehouse Aff., Ex. D, pp. 2 ¶ 5, Appx. 81 (emphasis added).)

On June 28, 2018, the Richland County Clerk of Court published its notice of hearing on the Motion to Compel Arbitration, to be conducted on July 31, 2018. (Notice of Motions Roster Publication, Appx. 100.)

On July 3, 2018, Plaintiffs electronically filed an Amended Summons and Complaint. (Amended Complaint, Appx. 100.) The Amended Complaint did not add any new or different causes of action, but only dropped Plaintiffs' claim for breach of contract. (*Compare* Complaint, Appx. 13, *with* Amended Complaint, Appx. 100.) Nevertheless, before the hearing on the Motion to Compel Arbitration, Plaintiffs sought entry of default against Appellants for alleged failure to renew their still-pending Motion to Compel Arbitration. (Affidavit in Support of Entry of Default, Appx. 110.)

Judge Newman took up the Motion for Entry of Default during the time allotted for hearing on Defendants' still-pending Motion to Compel Arbitration. By Form 4 Order entered on August 2, 2018, Judge Newman granted Entry of Default and denied as moot Defendants WFA and Faircloth's Motion to Compel Arbitration. (August 2, 2018 Order, Appx. 121.) The Form 4 Order stated that a formal written order was to follow. Judge Newman entered a formal written order entering default as to WFA and Faircloth on October 24, 2018. (October 24, 2018 Order Entering Default, Appx 128.) On October 29, 2018, WFA and Faircloth filed an amended motion for reconsideration, pursuant to S.C. R. Civ. P. 59(a), as to Judge Newman's October 24, 2018 written order. (Amended Motion for Reconsideration, Appx. 136.) On November 30, 2018, Judge Newman entered a Form 4 Order denying the motions for reconsideration. (November 30, 2018 Order, Appx. 144.)

On December 28, 2018, Defendants-Appellants Wells Fargo Advisors, LLC and Jessie Rowe Faircloth served and filed their Notice of Appeal as to the August 2, 2018, October 24, 2018, and November 30, 2018 Orders which cumulatively denied their Motion to Compel Arbitration and instead entered default against them.

II. THE DENIAL OF DEFENDANTS' MOTION TO COMPEL ARBITRATION IS IMMEDIATELY APPEALABLE

South Carolina appellate courts have consistently and uniformly held that denial of an application to compel arbitration, on any basis, is immediately appealable. *See, e.g., Cape Romain Contractors, Inc. v. Wando E., LLC*, 405 S.C. 115, 121, 747 S.E.2d 461, 463 n.4 (2013) (“An order denying arbitration is immediately appealable.”); *Rich v. Walsh*, 357 S.C. 64, 68, 590 S.E.2d 506, 508 (Ct. App. 2003) (vacating and remanding order denying arbitration); *Towles v. United HealthCare Corp.*, 338 S.C. 29, 35, 524 S.E.2d 839, 842 (Ct. App. 1999) (“An order that favors litigation over arbitration—whether it refuses to stay the litigation in deference to arbitration; refuses to compel arbitration; . . . or grants, continues, or modifies an injunction against arbitration—is immediately appealable, even if interlocutory.” (quoting *Stedor Enterprises, Ltd. v. Armtex, Inc.*, 947 F.2d 727, 730 (4th Cir. 1991))).

Here, the Court of Common Pleas justified its denial of the Motion to Compel Arbitration on an unprecedented and—as will be explained more fully in Defendants’ initial brief—erroneous application of the South Carolina Rules of Civil Procedure. Plaintiffs argued, and the Court of Common Pleas implicitly concluded, that a timely-filed and unresolved application for arbitration and for relief pursuant to Rule 12 is nullified by an intervening amendment to the complaint. (Oct. 24, 2018 Order, Appx. 131.) Moreover, in refusing to consider

the merits of the Motion to Compel Arbitration, the Court of Common Pleas concluded that Defendants' still-pending motion was irrelevant to the propriety of entry of default pursuant to Rule 55(a). (Oct. 24, 2018 Order, Appx. 131.)

There is no dispute that Defendants' Motion to Compel Arbitration was timely, as it was served on January 31, 2018 and filed on February 1, 2018 following service of the Complaint on January 2, 2018. S.C. R. Civ. P. 12(a). There is likewise no dispute that Defendants' Motion to Compel Arbitration was denied on August 2, 2018. The result of this ruling is that, absent intervention from this Court, Defendants will be forced to litigate the claims against them without expeditious appellate review. This result would be contrary to the language and objectives of both the FAA³ and the South Carolina Act:

Both federal and state policy favor arbitrating disputes. This preference for arbitration has manifested itself in legislation and judicial decisions supporting the expeditious appeal of decisions denying an application to compel arbitration.

Towles, 338 S.C. at 34, 524 S.E.2d at 842 (Ct. App. 1999); *see also Stedor Enterprises*, 947 F.2d at 730 ("Thus, a party who believes that arbitration is required by an agreement between the parties need not suffer the expense and inconvenience of litigation before receiving appellate review of a district court judgment that arbitration was inappropriate.").

³ There is no dispute that the FAA governs the issues presented here because the transactions between Plaintiffs and Defendants involve interstate commerce. (Pevehouse Aff. ¶ 18, Appx. 34.)

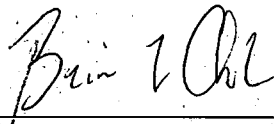
It is not necessary for the order denying arbitration to have addressed the merits of arbitrability in order to be appealable. Even a decision based solely on procedural considerations, like the one here, is immediately appealable under Federal and state law. For example, in *Rich v. Walsh*, 357 S.C. 64, 68, 590 S.E.2d 506, 508 (Ct. App. 2003) this Court vacated and remanded a trial court order denying a motion to compel arbitration on the basis of a determination of waiver. Similarly in *Rhodes v. Benson Chrysler-Plymouth, Inc.*, 374 S.C. 122, 125, 647 S.E.2d 249, 250 (Ct. App. 2007), this court exercised its appellate jurisdiction to adjudicate arguments surrounding waiver in an appeal of a motion to compel arbitration—where the motion was filed ten months after the lawsuit commenced.

Federal courts have likewise taken an expansive view of appealability under the FAA. *See, e.g., Snowden v. CheckPoint Check Cashing*, 290 F.3d 631, 636 (4th Cir. 2002) (“Here, the record unequivocally reflects that the district court entered an order denying Elite’s Motion to Compel Arbitration/Stay Proceedings. Under the plain language of § 16(a)(1)(A)-(B) of the FAA, this circumstance is all that is necessary to grant us appellate jurisdiction in this case.”). Indeed, the Supreme Court has expressly held that an order denying arbitration is immediately appealable irrespective of the merits of the motion or the basis of its denial. *Arthur Andersen LLP v. Carlisle*, 556 U.S. 624, 627, 129 S. Ct. 1896, 1900, 173 L. Ed. 2d 832 (2009) (“By [the FAA’s] clear and unambiguous terms, any litigant who asks

for a stay under § 3 is entitled to an immediate appeal from denial of that motion—
regardless of whether the litigant is in fact eligible for a stay.”)⁴

Here, the subject orders expressly denied Defendants’ Motion to Compel Arbitration. Accordingly, Defendants are entitled to an immediate appeal of the trial court’s orders, which will deprive them of their contractual right to arbitrate the claims against them. That the orders are based on erroneous procedural conclusions does not affect their appealability. Because federal and state law provide Defendants an immediate right of appeal, this Court should proceed to consider the merits of Defendants’ appeal. *See* 9 U.S.C. § 16(A)(1); S.C. Code Ann. § 15-48-200(A)(1).

This 8th day of February, 2019.



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ATTORNEYS FOR APPELLANTS

⁴ In *Arthur Andersen*, the Supreme Court exercised jurisdiction over an appeal from the denial of a motion to compel arbitration based on equitable estoppel. Here, Defendants’ Motion to Compel Arbitration is based on both written contracts between the parties and on principles of equitable estoppel. (Appx. 26-99.)

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APPEAL FROM RICHLAND COUNTY
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Shriners Hospitals for Children; Dorraine Lester;
Fred Townsend; and Howard Townsend

Respondents,

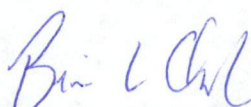
v.

Wells Fargo Clearing Services, LLC d/b/a Wells Fargo Advisors, LLC;
Wells Fargo Advisors, LLC; and Jessie Rowe Faircloth

Appellants.

PROOF OF SERVICE

I hereby certify that I have served the foregoing **Appellants' Memorandum Addressing Issue of Appealability** on Respondents, Shriners Hospitals for Children; Dorraine Lester; Fred Townsend; and Howard Townsend by depositing a copy of said Notice in the United States Mail, postage prepaid, on February 8, 2019, addressed to Respondents' attorneys of record, Robert G. Rikard and Peter D. Protopapas, PO Box 5640, Columbia, SC 29250.



Brian L. Church

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

Shriners Hospitals for Children, Dorraine Lester, Fred Townsend, and Howard Townsend,

Plaintiff(s)

vs.

Wells Fargo Advisors, LLC and Jessie Rowe Faircloth,

Defendant(s)

Submitted By: Peter D. Protopapas and Robert G. Rikard
Address: Rikard & Protopapas, LLC
PO Box 5640, Columbia, SC 29250
1329 Blanding Street, Columbia, SC 29201

SC Bar #: PDP: 68304 / RGR 12340
Telephone #: 803.978.6111
Fax #: 803.978.6112
Other: _____
E-mail: pdp@rplegalgroup.com
rgr@rplegalgroup.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filed but completely signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☒ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|---|--|---|--|
| Contracts
☐ Constructions (100)
☐ Debt Collection (110)
☐ General (130)
☐ Breach of Contract (140)
☐ Fraud/Bad Faith (150)
☐ Failure to Deliver/Warranty (160)
☐ Employment Discrim (170)
☐ Employment (180)
☐ Other (199) _____ | Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
20 ____-NI-_____
☐ Notice/ File Med Mal (230)
☒ Other (299) _____ | Torts - Personal Injury
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☐ Assault/Battery (370)
☐ Slander/Libel (380)
☐ Other (399) _____ | Real Property
☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499) _____ |
| Inmate Petitions
☐ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) _____ | Administrative Law/Relief
☐ Reinstate Drv. License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order (850)
☐ Other (899) _____ | Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured Settlement Payment Rights Application (760)
☐ Confession of Judgment (770)
☐ Petition for Workers Compensation Settlement Approval (780)
☐ Other (799) _____ | Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Public Service Comm. (990)
☐ Employment Security Comm (991)
☐ Other (999) _____ |
| Special/Complex /Other
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699) _____
☐ Sexual Predator (510) | ☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of State Depositions (650)
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☐ Pre-Suit Discovery (670) | | |

Submitting Party Signature: _____

Date: 11/20/2017

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

Effective January 1, 2016, Alternative Dispute Resolution (ADR) is mandatory in all counties, pursuant to Supreme Court Order dated November 12, 2015.

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

Pursuant to the ADR Rules, you are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs.
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

FIFTH JUDICIAL CIRCUIT

Shriners Hospitals for Children, Dorraine
Lester, Fred Townsend, and Howard
Townsend,

Plaintiffs,

v.

Wells Fargo Advisors, LLC and Jessie Rowe
Faircloth,

Defendants.

Civil Action No:

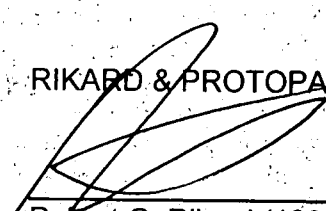
SUMMONS

RICHLAND CO.
F1500
2017 NOV 27 AM 9:11
JEANETTE M. MORRICE
C.C.P. & G.S.

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is hereby served on you, and to serve a copy of your Answer to the said Complaint upon the subscribers at 1329 Blanding Street, Columbia, South Carolina 29201, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in such Complaint.

Respectfully submitted,

RIKARD & PROTOPAPAS, LLC


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Peter D. Protopapas (68304)
1329 Blanding Street
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November 20, 2017

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH JUDICIAL CIRCUIT

Shriners Hospitals for Children, Dorraine
Lester, Fred Townsend, and Howard
Townsend

Plaintiffs,

Vs.

Wells Fargo Advisors, LLC and Jessie
Rowe Faircloth,

Defendants.

Civil Action No:

COMPLAINT
(Jury Trial Demanded)

2017 NOV 27 AM 9:11

FILED
CLERK OF COURT
RICHLAND COUNTY
SOUTH CAROLINA

This case arises out of Defendants negligent and grossly negligent financial planning advice. Defendants' actions violated Wells Fargo Advisors, LLC's internal policies and procedures, as well as their generally accepted standards of care and their common law duties.

PARTIES AND VENUE

1. At all times relevant to the Complaint, Shriners Hospitals for Children is a Colorado nonprofit corporation with its headquarters located at 2900 Rocky Point Drive, Tampa, FL 33607. Dorraine Lester, Fred Townsend, and Howard Townsend are citizens and residents of South Carolina.
2. Upon information and belief, Defendant Wells Fargo Advisors, LLC is a limited liability company formed in the state of Delaware with an office and employees in Richland County South Carolina.
3. Defendant Jessie Rowe Faircloth is, upon information and belief a citizen of South Carolina and a resident of Lexington County South Carolina.

VENUE

4. Venue is appropriate in Richland County as the acts and circumstances complained of occurred in Richland County.

FACTS

5. Kathlyn Leaphart, was a citizen and resident of Richland County South Carolina before she passed away on July 4, 2015.
6. Prior to her passing, Ms. Leaphart utilized Defendants for financial advice and planning.
7. On or about April of 2015, Ms. Leaphart advised her longtime friend Dorraine Lester that Ms. Leaphart would need Ms. Lester's assistance in getting Ms. Leaphart's finances in order.
8. On or about June 7, 2015, Ms. Leaphart became ill and was admitted into Providence Hospital where she died on July 4, 2015.
9. From June 7-July 4, 2015, Ms. Leaphart's physical health deteriorated.
10. Ms. Leaphart decided to implement her prior decision to arrange her finances in the event that she passed.
11. Ms. Leaphart advised Ms. Lester to retrieve financial papers from Ms. Leaphart's home.
12. Ms. Lester retrieved the papers.
13. Ms. Leaphart instructed Ms. Lester to call her Wells Fargo representative to arrange a meeting wherein Ms. Leaphart could arrange her finances as she chose.

14. Neither Ms. Leaphart's Wells Fargo representative, nor his subordinate were available to meet with Ms. Leaphart and instead, Wells Fargo sent Defendant Faircloth to meet with Ms. Leaphart at the Hospital.
15. Defendant Ms. Faircloth did not have experience in meeting with critically ill clients to arrange finances.
16. Defendant Wells Fargo failed to supervise Ms. Faircloth's actions but instead left it to Ms. Faircloth to figure out.
17. On or about June 22, 2015, Ms. Faircloth came to the Hospital with forms for Ms. Leaphart and met with Ms. Leaphart and Ms. Lester.
18. Ms. Leaphart instructed Ms. Faircloth to transfer securities into a Wells Fargo securities account. Ms. Faircloth and Wells Fargo accepted the verbal instruction of Ms. Leaphart and transferred securities to a Wells Fargo Account.
19. Ms. Faircloth also left forms for Ms. Leaphart including: change of beneficiary forms for three annuities and a transfer on death form for the Wells Fargo Securities account.
20. After Ms. Faircloth left, Ms. Leaphart determined that:
 - a. Shriners Hospitals for Children would be the beneficiary of the largest annuity which was with TransAmerica;
 - b. Ms. Leaphart's niece would be the beneficiary of the smallest annuity which was with TransAmerica;
 - c. Howard and Fred Townsend would be the beneficiaries of the middle sized annuity with Pacific Life; and,

- d. Ms. Leaphart also determined that Dorraine Lester would receive the securities account upon death.
21. On or about June 22, 2015, after instructing Ms. Lester as to her wishes, Ms. Leaphart signed the four forms in blank.
22. On or about June 23, 2015, Ms. Leaphart called Ms. Faircloth, advised Ms. Faircloth that she had signed the forms, instructed Ms. Faircloth that Ms. Lester was going to visit Ms. Faircloth and to help Ms. Faircloth effect Ms. Leaphart's instructions.
23. Ms. Leaphart then instructed Ms. Lester to go to Wells Fargo with the forms to meet with Ms. Faircloth.
24. Ms. Lester followed Ms. Leaphart's instructions and went to Wells Fargo and met with Ms. Faircloth.
25. Ms. Faircloth, in violation of Wells Fargo policy, assisted Ms. Lester in filling out the blank signed forms, including the change in annuity beneficiary forms as well as the transfer on death form.
26. After following Ms. Faircloth's instructions, Ms. Lester gave Ms. Faircloth the forms and Ms. Lester left Wells Fargo's office.
27. Ms. Faircloth should not have assisted in the filling out of the forms. Instead, Ms. Faircloth should have returned to the Hospital to meet with Ms. Leaphart and assist Ms. Leaphart in completing the forms and obtain proper witness signatures.
28. Defendants knew or should have known that their instructions to Ms. Leaphart and to Ms. Lester were insufficient to effect Ms. Leaphart's wishes.

29. Defendant Wells Fargo knew or should have known that it needed to supervise Ms. Faircloth and to properly train her on how to properly effect Ms. Leaphart's wishes.

30. As a result of Defendants' acts and omissions, Ms. Leaphart's wishes were frustrated and her intended beneficiaries did not receive what they otherwise should have been entitled. Plaintiffs have suffered substantial damages as a direct and proximate result of the Defendants' acts and omissions.

FOR A FIRST CAUSE OF ACTION
BREACH OF CONTRACT BY THIRD PARTY BENEFICIARIES

31. Ms. Leaphart's intent was clear, to change beneficiaries in her annuities and to designate a person to receive her securities account upon her death.

32. Defendants were aware that their advice in the proper filling out of the forms was to be used to ensure that the Plaintiffs received the annuities and securities account upon Ms. Leaphart's passing.

33. Defendants were aware that Ms. Leaphart and Ms. Lester were relying on Defendants' advice for this particular purpose.

34. Defendants understood that their advice should be relied upon.

35. Ms. Leaphart has passed and is no longer in a position to enforce her rights against these Defendants.

36. Plaintiffs have no other recourse for the failed actions of the Defendants than to sue them directly.

37. Defendants' errors have defeated or diminished the intent of Ms. Leaphart and proximately damaged the Plaintiffs.

38. As a direct and proximate result of Defendants' acts and omissions, Plaintiffs have suffered actual and consequential damages.

**FOR A SECOND CAUSE OF ACTION
NEGLIGENCE/GROSS NEGLIGENCE**

39. Plaintiffs incorporate the above paragraphs by reference as if recounted at length herein.

40. Defendants provided advice and instruction to Ms. Leaphart within the course of their business, profession, or employment.

41. Defendants had a pecuniary interest in supplying this information.

42. Defendants knew that their advice would benefit Plaintiffs.

43. Defendants breached the duty of care by, among other things, failing to properly advise Ms. Leaphart on the proper methods to effectuate Ms. Leaphart's intent on her financial planning.

44. The documents that Defendants provided and supervised their filling out were intended to make the Plaintiffs the beneficiaries of certain of Ms. Leaphart's assets.

45. The documents were to provide for the transfer of the annuities and securities upon death to the Plaintiffs.

46. It was directly foreseeable that Defendants improper advice and assistance in the completion of the necessary forms would result in harm to the Plaintiffs.

47. Without the proper documents, the Plaintiffs have sustained sum certain loss and injury and Ms. Leaphart's intent is frustrated.

48. The Plaintiffs are damaged by the Defendants' conduct and but for this action would not be able to recover for this wrong.

49. As a result, Defendants conduct directly and proximately has caused the Plaintiffs' injury and Plaintiffs have sustained actual and consequential damages.

FOR A THIRD CAUSE OF ACTION
NEGLIGENT SUPERVISION AND TRAINING

50. Plaintiffs incorporate the above paragraphs by reference as if recounted at length herein.

51. Defendant Wells Fargo had a duty to properly train and supervise its employee in the proper methods to change annuity beneficiaries as well as payment upon death of securities accounts.

52. Defendant Wells Fargo knew or should have known that its employee Defendant Faircloth did not know the proper procedure to effect a change in beneficiary in an annuity or in a payment upon death for a securities account.

53. Defendant Wells Fargo had the ability to supervise and train its employee and knew of the necessity of doing so, yet failed to train and supervise its employee.

54. As a direct and proximate result of the Defendant Wells Fargo's failure to supervise and train its employees, Plaintiffs have proximately suffered actual and consequential damages.

Wherefore, the Plaintiffs respectfully pray for judgment against the Defendants for actual, punitive damages in an amount to be determined at the trial of this action, prejudgment interest, for the costs and disbursements of this action, and for such other and further relief as this Court Deems Just and proper.

[Signature Page to Follow]

RIKARD & PROTOPAPAS, LLC



Robert G. Rikard (12340)
Peter D. Protopapas (68304)
1329 Blanding Street
PO Box 5640 (29250)
Columbia, SC 29201
PH: 803-978-6111
FAX: 803-978-6112
rgr@rplegalgroup.com
pdp@rplegalgroup.com

November 20, 2017

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH JUDICIAL CIRCUIT

Shriners Hospitals for Children, Dorraine
Lester, Fred Townsend, and Howard
Townsend

Plaintiffs,

Vs.

Wells Fargo Advisors, LLC and Jessie
Rowe Faircloth,

Defendants.

Civil Action No.: 2017-CP-40-07181

ACCEPTANCE OF SERVICE
ON BEHALF OF DEFENDANT
JESSIE ROWE FAIRCLOTH

FILED
2018 JAN -8 AM 11:34
JEANETTE W. MCBRIDE
CLERK OF COURT

This is to certify that Brian L. Church, as Counsel for Defendant Jessie Rowe Faircloth, accepts service of the Civil Action Cover Sheet, Summons and Complaint filed on November 27, 2017, in the above-captioned matter this 3rd day of January, 2018 ~~December, 2017~~.

Brian L. Church
Brian L. Church, Esquire
Robinson Bradshaw
101 N. Tryon Street, Suite 1900
Charlotte, NC 28246
P: 704.377.8166
F: 704.339.3466
bchurch@robinsonbradshaw.com

Attorney for Defendant Jessie Rowe
Faircloth

This 3rd day of January, 2018 ~~December, 2017~~

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH JUDICIAL CIRCUIT

Shriners Hospitals for Children, Dorraine
Lester, Fred Townsend, and Howard
Townsend

Plaintiffs,

Vs.

Wells Fargo Advisors, LLC and Jessie
Rowe Faircloth,

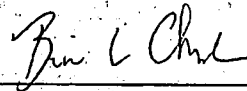
Defendants.

Civil Action No.: 2017-CP-40-021

ACCEPTANCE OF SERVICE
ON BEHALF OF DEFENDANT
WELLS FARGO ADVISORS, LLC

RICHLAND COUNTY
FILED
2018 JAN -8 AM 11:34
JEANETTE W. MCORRIDE
CLERK

This is to certify that Brian L. Church, as Counsel for Defendant Wells Fargo
Advisors, LLC, accepts service of the Civil Action Cover Sheet, Summons and Complaint
filed on November 27, 2017, in the above-captioned matter this 2nd day of January,
2018
~~2017~~.



Brian L. Church, Esquire
Robinson Bradshaw
101 N. Tryon Street, Suite 1900
Charlotte, NC 28246
P: 704.377.8166
F: 704.339.3466
bchurch@robinsonbradshaw.com

Attorney for Defendant Wells Fargo
Advisors, LLC

This 2nd Day of January, 2018
~~December, 2017~~

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

SHRINERS HOSPITALS FOR CHILDREN,
DORRAINE LESTER, FRED TOWNSEND, and
HOWARD TOWNSEND,)

Plaintiffs,)

vs.)

WELLS FARGO ADVISORS, LLC and JESSIE
ROWE FAIRCLOTH)

Defendants.)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

CASE NO.: 2017-CP-40-07131

MOTION AND ORDER INFORMATION

FORM AND COVERSHEET

Plaintiffs' Attorneys:

Peter D. Protopapas
SC Bar No. 68304
pdp@rplegalgroup.com
Robert G. Rikard
SC Bar No. 12340
rgr@rplegalgroup.com
RIKARD & PROTOPAPAS, LLC
P.O. Box 5640
Columbia, SC 29201
Tel: 803.978-6111
Fax: 803.978.6112

Defendants' Attorneys:

Stephen M. Cox
S.C. Bar No. 12263
scox@robinsonbradshaw.com
Brian L. Church
SC Bar No. 80359
bchurch@robinsonbradshaw.com
ROBINSON, BRADSHAW & HINSON, P.A.
202 East Main Street, Suite 201
Rock Hill, SC 29730
Tel: 803.325.2900
Fax: 803.325.2929

- ☒ **MOTION HEARING REQUESTED** (attach written motion and complete **SECTIONS I and III**)
☐ **FORM MOTION, NO HEARING REQUESTED** (complete **SECTIONS II and III**)
☐ **PROPOSED ORDER/CONSENT ORDER** (complete **SECTIONS II and III**)

SECTION I: Hearing Information

Nature of Motion: Motion to Compel Arbitration and to Dismiss or, in the Alternative, Stay Action
Estimated Time Needed: **30 minutes** Court Reporter Needed: ☒ **YES** / ☐ **NO**

SECTION II: Motion/Order Type

☐ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order:

Signature of Attorney for ☐ Plaintiff / ☐ Defendant Date submitted

SECTION III: Motion Fee

- ☒ **PAID - AMOUNT: \$25.00**
☐ **EXEMPT:** (check reason)
☐ Rule to Show Cause in Child or Spousal Support
☐ Domestic Abuse or Abuse and Neglect
☐ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____
☐ Other: _____

JUDGE'S SECTION

- ☐ Motion Fee to be paid upon filing of the attached order.
☐ Other: _____

JUDGE CODE _____
Date: _____

CLERK'S VERIFICATION

- Collected by: metts Date Filed: 2-1-18
☐ **MOTION FEE COLLECTED: \$** _____
☐ **CONTESTED - AMOUNT DUE: \$** _____

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

CASE NO: 2017-CP-40-07131

SHRINERS HOSPITALS FOR
CHILDREN, DORRAINE LESTER, FRED
TOWNSEND, and HOWARD
TOWNSEND,

Plaintiffs,

v.

WELLS FARGO ADVISORS, LLC and
JESSIE ROWE FAIRCLOTH,

Defendants.

DEFENDANTS' MOTION TO COMPEL
ARBITRATION AND TO DISMISS OR,
IN THE ALTERNATIVE, STAY
ACTION

RICHLAND COUNTY
FILED
FEB - 1 AM 9:14
CLERK W. MCBRIDE
S.C.P. & G.S.

Pursuant to the Federal Arbitration Act, 9 U.S.C. § 1 *et seq.*, the South Carolina Arbitration Act, S.C. Code Ann. § 15-48-10 *et seq.*, South Carolina Rule of Civil Procedure 12(b)(3), applicable common law and the written agreements by and between: (a) Decedent Kathlyn L. Leaphart, whose contractual rights are asserted by Plaintiffs in this action, and Defendant Wells Fargo Clearing Services, LLC d/b/a Wells Fargo Advisors, LLC ("WFA"); (b) Plaintiff Dorraine Lester and WFA; (c) Plaintiff Fred Townsend and WFA; and (d) Plaintiff Howard Townsend and WFA, Defendants hereby request that the Court enter an order (1) referring to arbitration all claims asserted in the Complaint filed by Plaintiffs on November 17, 2017, and (2) dismissing or, in the alternative, staying the litigation of the claims asserted in the Complaint.

As grounds for the motion, Defendants shall rely on the facts established in the pleadings and papers of record in this action, the Affidavit of Michele R. Pevehouse (together with all exhibits thereto) attached hereto as Exhibit 1 (the "Pevehouse Aff."), and a memorandum in

support of this motion, together with all exhibits thereto, which it shall serve upon Plaintiffs prior to a hearing on its motion. Specifically, Defendants will rely on the Capital Resource Account Agreement (a copy of which is included in the documents attached hereto as Pevehouse Aff., Ex. B) to which Decedent Kathlyn L. Leaphart ("Leaphart") was a party. Plaintiffs assert that they are third-party beneficiaries of a contract between WFA and Leaphart and assert claims for breach of that contract by WFA. (See Compl. ¶¶ 31-38.) The Capital Resource Account Agreement, which contains the terms of any contract between WFA and Leaphart, contains a mandatory arbitration agreement. The agreement provides for, *inter alia*, the arbitration of "all controversies which may arise between us concerning any transaction or the construction, performance, or breach of this or any other agreement between us... on or subsequent to the date hereof" between WFA and Leaphart. (Pevehouse Aff., Ex. B, p. 28 ¶ 15.) Because Plaintiffs are seeking to enforce contractual rights arising from a contract subject to binding arbitration, their claims are likewise subject to mandatory arbitration.

In addition, Plaintiffs Dorraine Lester, Fred Townsend, and Howard Townsend are each personally signatories to the WFA Client Agreement ("Client Agreement"). (Pevehouse Aff., Ex. D.) The Client Agreement contains a mandatory arbitration agreement and compels the arbitration of "all controversies or disputes which may arise between you and WFA . . . concerning *any transaction* or the construction, performance or breach of this Agreement or any other agreement between us . . . before, an arbitration panel set up by the Financial Industry Regulatory Authority ('FINRA') in accordance with its arbitration procedures." (Pevehouse Aff., Ex. D, p. 2 ¶ 5) (emphasis added.)

The undersigned has consulted with opposing counsel prior to filing the instant motion, and was informed that Plaintiffs decline to consent to the arbitration of their claims at this time.

WHEREFORE, Defendants respectfully request that this Court enter an order that (1) refers to arbitration all claims asserted in the Complaint filed by Plaintiffs on November 17, 2017 and (2) dismisses or, in the alternative, stays the litigation of the claims asserted in the Complaint.

This 31st day of January, 2018.



Stephen M. Cox
S.C. Bar No. 12263
scox@robinsonbradshaw.com
Brian L. Church
S.C. Bar No. 80359
bchurch@robinsonbradshaw.com

ROBINSON BRADSHAW & HINSON, P.A.
202 East Main Street
Suite 201
Rock Hill, SC 29730
(803) 325-2900

*Attorneys for Defendants Wells Fargo Clearing
Services, LLC d/b/a Wells Fargo Advisors, LLC and
Jessie Rowe Faircloth*

CERTIFICATE OF SERVICE

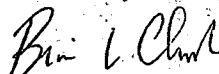
I hereby certify that the foregoing **DEFENDANTS' MOTION TO COMPEL ARBITRATION AND TO DISMISS OR, IN THE ALTERNATIVE, STAY ACTION** has been duly served upon the following counsel of record by U.S. First Class Mail and electronic delivery:

Robert G. Rikard
Peter D. Protopapas
1329 Blanding Street
PO Box 5640 (29250)
Columbia, SC 29201
rgr@rplegalgroup.com
pdp@rplegalgroup.com

Attorneys for Plaintiffs

RICHLAND COUNTY
FILED
2018 FEB - 1 AM 9:14
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

This the 31st day of January, 2018.



Brian L. Church

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

CASE NO: 2017-CP-40-07131

SHRINERS HOSPITALS FOR
CHILDREN, DORRAINE LESTER, FRED
TOWNSEND, and HOWARD
TOWNSEND,,

Plaintiff,

v.

WELLS FARGO ADVISORS, LLC and
JESSIE ROWE FAIRCLOTH,

Defendant.

AFFIDAVIT OF
MICHELE R. PEVEHOUSE

JEANNETTE W. MCBRIDE
C.C.P. & G.S.

2018 FEB - 1 AM 9:14

RICHLAND COUNTY
FILED

PERSONALLY appeared before me Michele R. Pevehouse, who first being duly sworn, deposes and says:

1. I am over the age of twenty-one (21) years, suffer from no legal disability, and am competent and authorized to make this affidavit and to testify to the statements and facts contained herein.
2. I am employed by Defendant Wells Fargo Clearing Services, LLC d/b/a Wells Fargo Advisors, LLC ("WFA") as a Paralegal in WFA's St. Louis, Missouri Headquarters. I have been employed by WFA and its predecessors in interest, including Wachovia Securities, LLC and A.G. Edwards & Sons, Inc., in the same capacity and location since 1996.
3. Through my work as a Paralegal, I am familiar with WFA's practices regarding the creation and retention of account opening documents and account agreements with its clients.
4. At the time a client opens an account with WFA, WFA provides each client with a copy of a written agreement governing the account and requires the client to execute a signature

page acknowledging receipt of the written agreement. WFA requires written consent to the client agreement as a condition of opening an account.

5. WFA collects the physical copy of the signature page from the client (or client representative, in the case of an entity). Generally, this exchange occurs at a remote branch of WFA. After receiving the physical copy of the signature page, an electronic copy of the signature page is transmitted to WFA's home office in St. Louis, Missouri. WFA stores these documents on secure servers that are accessible to certain personnel, including paralegals.

6. In all relevant instances, the signature page indicates which of WFA's written agreements was provided to the client at the time the client opened the account.

7. It is the regular practice of WFA to provide its clients with written agreements and to accept and retain signature pages acknowledging, among other things, the receipt of written agreements, and to do so contemporaneously with the opening of the new account.

8. This record-keeping practice is the long-standing practice of WFA and its predecessors-in-interest, including Wheat First Union. Wheat First Union was a division of Wheat First Securities, Inc. Wheat First Securities Inc. merged with and under the name First Union Capital Markets Corp. on January 31, 1998. First Union Capital Markets Corp. merged with and under the name First Union Securities, Inc. on or about September 13, 1999. First Union Securities, Inc. merged with and under the name Wachovia Securities, Inc. on or about June 15, 2002. Effective May 30, 2003, Wachovia Securities changed its name and converted to Wachovia Securities, LLC. On or about May 2, 2009, Wachovia Securities, LLC changed its name to Wells Fargo Advisors, LLC. On or about November 11, 2016, Wells Fargo Advisors, LLC changed its name to Wells Fargo Clearing Services, LLC.

9. On August 26, 1999, Kathlyn L. Leaphart opened a brokerage account with WFA predecessor Wheat First Union bearing account number XXXX-4135 (the "Leaphart Account"). Ms. Leaphart maintained the Leaphart Account with WFA and its predecessors through and until her death in 2015.

10. As part of the process of opening the Leaphart Account, Ms. Leaphart signed the Capital Resource Account Agreement attached as Exhibit A to this Affidavit. Exhibit A expressly refers to an arbitration clause contained in the associated Capital Resource Account Terms and Conditions. A copy of the Capital Resource Account Terms and Conditions was provided to Ms. Leaphart when she opened the Leaphart Account, and the Capital Resource Account Terms and Conditions document is attached to this Affidavit as Exhibit B.

11. The Leaphart Account is the only brokerage account that Ms. Leaphart held at WFA and is the subject of Plaintiffs' Complaint.

12. On July 17, 2015, Plaintiff Dorraine F. Lester opened a brokerage account with WFA bearing account number XXXX-5766 (the "Lester Account").

13. As part of the process of opening the Lester Account, Ms. Lester signed the Signature Page attached as Exhibit C to this Affidavit. Exhibit C expressly refers to an arbitration clause contained in an associated Client Agreement. A copy of the Client Agreement was provided to Ms. Lester when she opened the Lester Account, and the Client Agreement is attached to this Affidavit as Exhibit D.

14. On July 28, 2015, Plaintiff Howard B. Townsend opened a brokerage account with WFA bearing account number XXXX-5944 (the "Howard Townsend Account").

15. As part of the process of opening the Howard Townsend Account, Mr. Townsend signed the Signature Page attached as Exhibit E to this Affidavit. Exhibit E expressly refers to

an arbitration clause contained in an associated Client Agreement. A copy of the Client Agreement (attached hereto as Exhibit D) was provided to Mr. Townsend when he opened the Howard Townsend Account.

16. On July 28, 2015, Plaintiff Fred D. Townsend, Jr. opened a brokerage account with WFA bearing account number XXXX-6621 (the "Fred Townsend Account").

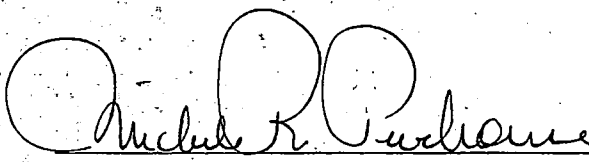
17. As part of the process of opening the Fred Townsend account, Mr. Townsend signed the Signature Page attached as Exhibit F to this Affidavit. Exhibit F expressly refers to an arbitration clause contained in an associated Client Agreement. A copy of the Client Agreement (attached hereto as Exhibit D) was provided to Mr. Townsend when he opened the Fred Townsend Account.

18. WFA is a financial service firm that serves clients nationwide, through a network of more than 15,000 financial advisors. Headquartered in St. Louis, Missouri, the firm regularly trades on national securities exchanges such as the New York Stock Exchange and NASDAQ. WFA is subject to extensive federal securities regulations and the oversight of federal agencies, such as the Securities and Exchange Commission. WFA is also a member of the Financial Industry Regulatory Authority, a nationwide self-regulatory organization that oversees thousands of brokerage firms across the country.

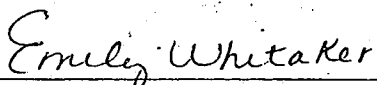
FURTHER AFFIANT SAYETH NOT.

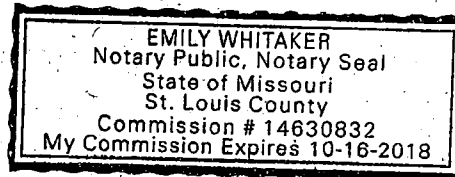
[Signature appears on following page]

[Signature page to Affidavit of Michele R. Pevehouse]


MICHELE R. PEVEHOUSE

Sworn to before me this
the 26th day of January, 2018.


Notary Public for Missouri



My Commission Expires: 10-16-18

New Account

ACCOUNTS OPENED WITHOUT TAX ID OR S.S. # ARE SUBJECT TO IMMEDIATE AND IRREVERSIBLE TAX WITHHOLDING

8-25-99

CF93

4135

GENERAL INFORMATION

Title of Account:

KATHLEEN LEAHART

Mailing Address:

100 GREENFIELD RD

COLUMBIA

SC

29223-3013

☐ Tax ID or ☒ Social Security #

000 708-1111

Home Phone

Work Phone

Cell Phone

Fax

11-11-2020

Date of Birth

Gender

ACCOUNT CODING (see page 2 for codes)

Standing Instructions

CSI = ☒ C DIV = Dividends ☒ 1
PRIN = If mailing dividends, should principal payments be included?
☒ Yes ☒ No (If NO, See Page 2)
RIN = Cash Dividends (Check one) Reinvest? ☒ Yes ☒ No
(If YES, See Page 2)
CSH-DV = Money Market Div: Reinvest? ☒ Yes ☒ No
(If NO, See Page 2)
CSH-O = Money Market Sweeps: ☒ Cash & Margin ☒ Cash Only
ACCT Category ☒ 001 (Enter Account Category Codes 001-015 here)
☒ 016 (Enter Account Category Codes 016-031 here)

INV-OBJ = Investment Objectives - Check one: (See Page 2 for definitions)
☐ A Income (quality emphasis) ☐ C Growth (return emphasis)
☐ G Income (return emphasis) ☐ F Trading & Speculation
☐ B Growth & Income (quality emphasis) ☐ E Not Applicable
☐ D Growth & Income (return emphasis) ☐ I High Income
☐ H Growth (quality emphasis) ☐ J FundSource

Is client or immediate family member employed by Wheat or another NASD member or any other financial services company?

☒ U.S. CITIZEN

☒ RESIDENT ALIEN

☒ NON-RESIDENT ALIEN

Complete if non-resident alien Country

Prov. State

If requested, does client want us to provide client's account name and address to an issuer in which we hold securities in street name? SEC Rule 14b-1 prohibits such issuer from using the name and address for any purpose other than corporate communications. ☒ Yes ☒ No

Delivery vs. Payment Accounts Only:

DTC #

ID Inst. #

Agent Bank #

Client #

FINS ID #

CLIENT PROFILE

Employer: RETIRED

Employer Address: NA

Title/Occupation: NA

Spouse's Name: DECEASED

Spouse's Employer: NA

Spouse's D.O.B. NA

Spouse's S.S. # NA

No. of Dependents 0

Other Brokerage Accounts? (current or former) Firm Names: SMITHBARNEY

Related Wheat First Union Accounts (account numbers): NONE

(check appropriate box for all three categories)

Annual Income (all sources)

Net Liquid Assets

Net Worth (excluding residence)

Tax Bracket 28 %

\$0 - 49,999 (A)	50,000 - 99,999 (B)	100,000 - 199,999 (C)	200,000 - 499,999 (D)	500,000 - 999,999 (E)	1,000,000 Or More (F)	Refuse to Disclose (G)
☐	☒	☐	☐	☐	☐	☐
☐	☐	☐	☐	☐	☒	☐
☐	☐	☐	☐	☐	☐	☒

Investment Experience:

Stocks 20 Yrs.
Bonds 20 Yrs.
Mutual Funds 20 Yrs.
Options 1 Yrs.
Commodities 1 Yrs.
Other 1 Yrs.

ACCOUNT CONTROL

Will anyone else have authority over this account?

☒ Yes ☒ No If yes, type of POA: ☒ Full ☒ Limited ☒ Discretionary

Name:

Is POA investment advisor? ☒ Yes ☒ No If yes, did you (FC) recommend POA? ☒ Yes ☒ No

Client's CPA and Firm:

Is FC registered in client's state of domicile? ☒ Yes ☒ No Was initial deposit ☒ Waived? ☒ Received? Amount \$

Transaction \$

Account Documentation:

☒ CRA-Individual

☐ ACAIN

☐ Statement Linking - Designated Account #

☒ CRA-Non-Individual

☐ Option

☐ Duplicate statement / confirmation: (Complete form #0804)

☒ WFS-JRA

☐ Other

☐ DVP Agreement - Delivery and pickup instructions (Complete form #0804)

APPROVALS

FC Signature

8/27/99

Branch Manager's Signature

8/27/99

Date

Date

Date

Wheat First Union is a division of First Union Capital Markets Corp., a separate, non-bank affiliate of First Union Corporation

Accounts carried by First Clearing Corporation, Member New York Stock Exchange and SIPC.

Wheat First Union

Capital Resource Account Agreement



IF THIS IS APPLICABLE TO AN EXISTING ACCOUNT, PLEASE MARK THIS BOX ☐

Account Registration

- ☒ Individual ☐ Tenants in Common
☐ Custodian: Minor ☐ Joint Tenants with Rights of Survivorship
☐ Tenants by Entirety ☐ Guardian
(IF PERMITTED UNDER YOUR STATE'S LAWS)
IF THE ACCOUNT IS FOR AN INDIVIDUAL WHO HAS A COURT-APPOINTED GUARDIAN, CO-PERCUSSOR OR CO-OWNER, CHECK THIS BOX. APPOINTMENT MUST BE ATTACHED.

IF TWO OR MORE OWNERS, JOINT TENANTS WITH RIGHTS OF SURVIVORSHIP WILL BE SELECTED AUTOMATICALLY IF YOU FAIL TO SELECT ONE OF THE ABOVE

Title of Account

NAME Kathryn L. Leaphart DATE OF BIRTH 11/11/20
 NAME _____
 STREET ADDRESS 100 Greenfield Road
 CITY Columbia STATE SC ZIP 29223
 PREFIX 85 ACCOUNT NUMBER 1411315 IC NO. CITK13 SOCIAL SECURITY NUMBER _____

Money Market Fund Portfolio

PLEASE INDICATE YOUR CHOICE

- ☐ Government Securities Portfolio ☐ Money-Market Portfolio ☐ Tax-Exempt Portfolio
☐ New York Tax-Exempt Portfolio ☐ California Tax-Exempt Portfolio
THE GOVERNMENT SECURITIES PORTFOLIO WILL AUTOMATICALLY BE SELECTED IF YOU DO NOT RECALL YOUR CHOICE
☒ Standard Package (no annual fee) ☐ Gold Package (\$65 annual fee) ☐ Basic Package (no annual fee)
 • Includes an initial supply of 40 complimentary personal-style checks. • Includes an initial supply of 200 complimentary personal-style checks and up to 2 Visa Gold Check cards. (up to 2 ADDITIONAL CARDS, \$10 EACH)
 • Do you wish to receive an ATM debit card? ☐ yes ☒ no • No checkwriting • No ATM debit card
 • Mother's maiden name (identity safeguard) _____

Margin Account

- For Standard and Gold Packages only, please indicate who will sign checks: ☐ Either Owner ☐ All Owners
 If eligible, your account will have CRA Private Credit Line borrowing privileges unless you decline below. See the agreement Terms and Conditions for an explanation of Private Credit Line (margin account) borrowing.
☒ I do not want CRA Private Credit Line borrowing privileges in my account.
 Please note that you will not have overdraft protection if you check this box.

Tax Certification

INSTRUCTIONS: The undersigned must cross out item (2) if he/she has been notified by the IRS that he/she is subject to backup withholding because of underreporting interest or dividends on his/her tax return.

UNDER PENALTIES OF PERJURY, I CERTIFY THAT:

- (1) The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
 (2) I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest and dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding (does not apply to real-estate transactions, mortgage interest paid, the acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement, and payments other than interest and dividends).

If the undersigned is waiting for a taxpayer identification number to be issued to him/her, write "Applied For" in the space above. If a taxpayer identification number is not received by WFTU within 60 days, WFTU is required to withhold 28% of all reportable payments transmitted to the undersigned until he/she provides such number.

By signing this Agreement, I also state that I have read, understood, and agree to the attached CRA Agreement Terms and Conditions and have received and read a Cash Resource Trust Prospectus.

THE UNDERSIGNED ACKNOWLEDGES AND AGREES THAT THE AGREEMENT'S TERMS AND CONDITIONS CONTAIN A PRE-DISPUTE ARBITRATION CLAUSE ON PAGE 28 AND ACKNOWLEDGES RECEIPT OF A COPY OF THOSE TERMS AND CONDITIONS.

Client Acknowledgement

WHEAT FIRST UNION IS A DIVISION OF FIRST UNION CAPITAL MARKETS CORP. (HEREINAFTER FOR THIS AGREEMENT TO BE KNOWN AS WFTU), A SEPARATE, NON-BANK AFFILIATE OF FIRST UNION CORPORATION. STOCKS, BONDS, MUTUAL FUNDS, AND OTHER SECURITIES BOUGHT AND SOLD THROUGH WFTU, OR ITS AFFILIATES OR AGENTS (INCLUDING, BUT NOT LIMITED TO FCCJ) ARE NOT DEPOSITS OF ANY BANK AND ARE NOT INSURED OR OTHERWISE PROTECTED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION ("FDIC"). OR ANY OTHER GOVERNMENT AGENCY, ARE NOT AN OBLIGATION OF ANY BANK OR ANY AFFILIATE OF WFTU, ARE NOT ENDORSED OR GUARANTEED BY FIRST UNION CORPORATION, WFTU, OR ANY BANK OR ANY AFFILIATE OF WFTU AND INVOLVE INVESTMENT RISK INCLUDING POSSIBLE LOSS OF PRINCIPAL. BY SIGNING THIS AGREEMENT, I ACKNOWLEDGE THAT I HAVE READ AND UNDERSTOOD THE FOREGOING.

Signature(s)

All Account Owners Must Sign. Sign exactly as account is titled. (If account owner(s) is incapacitated, Power of Attorney must sign below and at right.)

SIGNATURE Kathryn L. Leaphart DATE 11/11/20 TENANTS IN COMMON OWNERSHIP %
 PRINT NAME Kathryn L. Leaphart
 SIGNATURE _____ DATE _____ TENANTS IN COMMON OWNERSHIP %
 PRINT NAME _____
 ADDL AUTHORIZED VISA GOLD CARDHOLDER SIGNATURE _____ PRINT NAME _____
 ADDL AUTHORIZED VISA GOLD CARDHOLDER SIGNATURE _____ PRINT NAME _____

FOR COMPLETION ONLY IF POWER OF ATTORNEY IS TO BE USED
 The Account Owner(s) certify that the individual whose signature appears below has full Power of Attorney for all the Owner(s) of this CRA (copy attached). A Power of Attorney form for Your CRA is attached to this Agreement. If one is needed, If the Account Owner is incapacitated with a note of incapacitation, an existing Power of Attorney must be attached and the attorney-in-fact must sign below and at left. WFTU form Powers of Attorney are ineffective and unacceptable where an Account Owner is incapacitated.
 Signature _____
 ATTORNEY-IN-FACT POWER OF ATTORNEY: _____ DATE 11/11/20
 PRINT ATTORNEY-IN-FACT _____



CAPITAL RESOURCE ACCOUNTSM

TERMS AND CONDITIONS



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1340A (02/98)

[CAPITAL RESOURCE ACCOUNT LOGO]

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CAPITAL RESOURCE ACCOUNTSM

TERMS AND CONDITIONS

TERMS AND CONDITIONS

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IMPORTANT INFORMATION

The following is a summary of important information regarding Your Capital Resource Accountsm, and Your acknowledgement of certain understandings between You and Wheat in opening Your CRA. This information and acknowledgements are incorporated into Your CRA Agreement by this reference.

IMPORTANT INFORMATION AND CLIENT ACKNOWLEDGEMENTS

All defined terms used in this "Important Information" section but not defined herein are defined in the "Terms and Conditions" of this document.

o **CRA FOR INDIVIDUALS - JOINT AND SEVERAL OBLIGATIONS.** Unless this is an account held by a Custodian or Guardian, if there is more than one Account Owner of Your CRA, You may title Your Account in one of the following ways:

o **TENANTS IN COMMON (TEN COM).** Each of You has an equal, undivided interest in the Account, unless a different tenancy percentage interest is indicated on the Agreement adjacent to Your signatures. Under Virginia law, if You hold Your Account as Tenants in Common, You cannot register Your account to transfer on Your death (see discussion below).

o **JOINT TENANTS WITH RIGHT OF SURVIVORSHIP (JT TEN).** Each of You is a joint tenant with right of survivorship and not tenants in common, so that in the case of the death of any one of You, the entire Account shall become the property of the survivor or survivors.

o **TENANTS BY THE ENTIRETY (TEN ENT).** If You are married, and where permitted under applicable state law, a tenancy by the entirety provides that in the case of the death of one of the spouses, the Account becomes the property of the survivor to the exclusion of the heirs of the deceased.

o **CRA FOR INDIVIDUALS - TRANSFER ON DEATH.** Because Wheat is a corporation incorporated under the laws of the Commonwealth of Virginia, Your Account may be registered under the Virginia Uniform Transfers on Death ("TOD") Security Registration Act. This Act provides that if Your CRA is owned by You individually, as joint tenants with right of survivorship or as tenants by the entirety, You may designate that Your CRA shall become the property of a named person or persons upon Your death (or in the case of joint tenants or tenant by the entirety, upon the death of the last surviving owner) under Virginia law. Because titling Your CRA with a TOD registration will pass Your CRA assets outside of Your estate (BUT BE INCLUDED IN YOUR TAXABLE ESTATE), Wheat urges You to consult Your estate planner before choosing to exercise this option. If You desire to make Your CRA transfer upon Your death, please fill out the TOD Addendum to the CRA Agreement (the "TOD Addendum") which You can obtain from Your Wheat Financial Consultant and submit that addendum to Wheat along with the Agreement. The TOD registration will not become effective until the TOD Addendum has been received and accepted by Wheat's Operations Department. Accounts registered as TOD are subject to a separate fee schedule which is incorporated into the TOD Addendum.

o You should consult Your legal and/or tax advisor to determine the best method of ownership for Your CRA. **JOINT TENANCY WITH RIGHT OF SURVIVORSHIP**

SHALL BE PRESUMED IF YOU FAIL TO DESIGNATE THE METHOD OF OWNERSHIP ON YOUR CRA AGREEMENT.

ALL CRAS - IMPORTANT CLIENT ACKNOWLEDGMENTS. By signing the CRA Agreement, You acknowledge and agree that:

o Unless this is an Account held by a Pension Plan, an Investment Club, a Custodian or a Guardian, or You state otherwise by providing a written notification acceptable to Wheat, You will have a margin account and will be able to borrow from Wheat up to the Margin Loan Value of Your Securities Account.

o The information provided by You and/or shown on this Agreement is correct.

o You have received a Cash Resource Trust prospectus.

o You understand that the required minimum initial investment for participation in the CRA Basic Package or CRA Standard Package is \$1,000 in value and that the required minimum initial investment for participating in the CRA Gold Package is \$5,000 in value, and You have either enclosed Your check or have transferred such sum (either cash, and/or subject to certain restrictions, securities) to Your Securities Account. **IN ADDITION, YOU WILL NEED TO HAVE A BALANCE OF GREATER THAN \$2,000 IN YOUR ACCOUNT TO BE ELIGIBLE FOR A MARGIN LOAN AND, THEREFORE, OVERDRAFT PROTECTION. SEE ARTICLE I, SECTION B.3. HEREIN.**

o You authorize Wheat to provide the Fund, IFTC and/or the Bank (or their respective successors) with a copy of this Agreement, and to disclose to them information about Your Account.

o You authorize Wheat, the Fund, IFTC and/or the Bank to verify information contained in this Agreement, and to gather such other information as they may deem necessary.

o Unless You object in writing, received by Wheat's Operations Department, You agree that pursuant to Rule 14b-1(c) of the Securities and Exchange Commission, Wheat is obliged to provide Your name(s) and address(es) to each requesting issuer in which You hold securities in Wheat's nominee name. This Rule prohibits such issuer from using Your name(s) and address(es) for any purpose other than corporate communications.

o If You have an outstanding margin debit balance in Your Securities Account, certain of Your securities held in Your Securities Account may be lent to Wheat as principal or lent to others by Wheat.

o If You are a Pension Plan, an Advisory Account, an Investment Club, a Non-Corporate Organization, a NonProfit Organization, a Custodian, a Guardian or an Estate, You will not be eligible to receive a Debit Card or a VISA(R) GOLD Check Card. If You are an Advisory Account, You will not be eligible to use the Checkwriting feature of Your CRA.

TERMS AND CONDITIONS

INTRODUCTION

THIS DOCUMENT CONTAINS IMPORTANT TERMS AND CONDITIONS THAT APPLY TO YOUR WHEAT FIRST SECURITIES, INC. CAPITAL RESOURCE ACCOUNTSM. PLEASE READ THIS INFORMATION CAREFULLY AND RETAIN IT FOR FUTURE REFERENCE.

These Terms and Conditions are only authorized for distribution if accompanied by the current prospectus of Cash Resource Trust (the "Fund"). These Terms and Conditions are not, and investors should not consider them to be, a prospectus relating to the Fund. For information concerning the Fund, please read the Fund's prospectus which accompanies these Terms and Conditions. You may obtain a free copy of the Fund's current "Statement of Additional Information" by calling 1-800-382-0016.

ACCOUNT OVERVIEW. The Capital Resource Accountsm (the "CRA" or "Account") has been created to bring together, in one convenient place all of the financial tools You need to manage Your assets effectively. A CRA consists of a number of services provided by Wheat First Unionism, a division of Wheat First Securities, Inc. ("Wheat"), and outside service providers. CRAs are available to both qualified institutions and individuals (each an "Institution CRA" and an "Individual CRA," respectively). The Institution CRA is available to Corporations, Non-Profit Organizations, Non-Corporate Organizations (including only those investment clubs set up as corporations or partnerships), Partnerships, Estates, Pension and Profit Sharing Plans (not including Individual Retirement Accounts, Employee Stock Ownership Plans ("ESOP's") (collectively, "Pension Plans") and other Trusts (collectively "Institutions"). Individual CRAs are available to individuals, custodial arrangements for minors under uniform state laws ("Custodians") or arrangements supervised by a court-appointed guardian ("Guardians"). HOWEVER, CERTAIN FEATURES OF THE CRA (SUCH AS CHECKWRITING, THE DEBIT CARD AND THE VISA(R) GOLD CHECK CARD) ARE NOT AVAILABLE TO CERTAIN WHEAT ADVISORY ACCOUNTS OVER WHICH A PERSON OTHER THAN YOU HAS DISCRETIONARY AUTHORITY (THE "ADVISORY ACCOUNTS"), WHICH CURRENTLY ARE PRIVATE INVESTMENT MANAGEMENTSM ACCOUNTS, NETWORKSM, NETWORK PREMIER MANAGERS IISM, DISCRETIONARY FUNDSOURCESM ACCOUNTS, AND ACCOUNTS MANAGED BY WHEAT'S AFFILIATE, MENTOR INVESTMENT GROUP, LLC AND ITS DIVISIONS. CONSULT YOUR WHEAT FINANCIAL CONSULTANT OR THE APPLICABLE ADVISORY ACCOUNT'S DISCLOSURE STATEMENT FOR FURTHER DETAILS. NON-RESIDENT ALIENS AND CITIZENS OF THE UNITED STATES LIVING OUTSIDE OF THE UNITED STATES MAY NOT ESTABLISH OR MAINTAIN CRAS.

Under the CRA Basic Package or CRA Standard Package, You can open Your CRA for as little as \$1,000 in cash or unencumbered, marginable securities (and more than \$2,000 in order to avail yourself of the margin loan feature). Participation in the CRA Gold Package requires an Account balance of at least \$5,000. Certain restrictions may apply.

If You wish to maintain an Advisory Account, You are required to execute an additional agreement, which You can obtain from Your Wheat Financial Consultant and/or any Wheat branch office. In addition, the Advisory Account is subject to a separate fee schedule which is incorporated into such additional agreement.

The CRA includes the following services:

- o A Wheat Securities Account ("Securities Account");

o Automatic investment of idle cash in Your Securities Account in one of the five portfolios of the Fund, which are the Money Market Portfolio, the Government Securities Portfolio, the Tax-Exempt Portfolio, the New York Tax-Exempt Money Market Fund and California Tax-Exempt Money Market Fund¹;

o Weekly transfer of idle cash in Your Securities Account (except for Pension Plans) to the Fund except that if the Free Credit Balance equals or exceeds \$500 for the Accounts of participants in the CRA Gold Package or \$5,000 for all others' accounts, then idle cash will be transferred daily;

o Daily transfer of idle cash in the Securities Accounts of Pension Plans to the Fund;

o If You participate in the CRA Standard Package or CRA Gold Package, convenient checking ("Checks") against the Combined Asset Value (as defined hereinafter) of Your CRA, payable through Investors Fiduciary Trust Company, Kansas City, Missouri ("IFTC")²;

o If You participate in the CRA Standard Package, a debit card (the "Debit Card") against Your Combined Asset Value, issued by the United Missouri Bank, N.A. (the "Bank"), which can be used at automated teller machines ("ATMs") to access cash (subject to certain limitations) 24 hours a day through the PLUS SYSTEM(R)

o If You participate in the CRA Gold Package, You will receive a VISA(R) Gold check card (the "VISA(R) GOLD Check Card") against Your Combined Asset Value, issued by IFTC which can be used at ATMs (subject to certain limitations) 24 hours a day through the VISA(R) System and PLUS SYSTEM(R) worldwide, or can be used to make purchases of goods or services from any vendor accepting the VISA(R) card; cash withdrawals using the VISA(R) GOLD Check Card are limited to \$600 per Account per day and purchases of goods and services using the VISA(R) GOLD Check Card are limited to Your Combined Asset Value, and there may be charges for cash- withdrawal transactions³;

o Wheat will deduct Debit Card and VISA(R) GOLD Check Card debits up to the Combined Asset Value of Your CRA;

o You will not be able to use either the Debit Card or VISA(R) GOLD Check Card to deposit money to or ascertain the value of Your Securities Account, purchase Fund shares or to transfer money between accounts;

o You may authorize direct deposit of funds into Your CRA, and authorize periodic payments or debits from Your CRA;

o A convenient, secured line of credit that provides You with protection to cover Your cash withdrawals (either through the use of the Debit Card or VISA(R) GOLD Check Card, authorized periodic debits or Checks) in excess.

¹The Tax-Exempt Portfolios may not be appropriate investments for Pension Plans, Non-Profit Organizations and certain other Institutions. You should consult Your tax advisor to determine its appropriateness for You.

²Advisory Accounts may not have Checks worldwide and at participating BankMate(R) Point-of-Sale (as defined hereinafter) terminals; cash withdrawals using the Debit Card (both ATM withdrawals and Point-of-Sale debits) are limited to \$300 per Account per day and there may be charges for such transactions;

³Neither the Debit Card nor the VISA(R) GOLD Check Card is available to Advisory Accounts, Pension Plans, Non-Corporate Organizations, Non-Profit Organizations, Estates, Investment Clubs, Custodians or Guardians. Corporations may not have the Debit Card.

of the Free Credit Balance in Your Securities Account, Your Fund shares, if applicable, is available through the Margin Loan Value (as these terms are more fully described below) of Your Securities Account⁴;

o A consolidated activity report for all these transactions on Your periodic⁵ Wheat Securities Account Statement ("Account Statement") for easy recordkeeping;

o The superior resources of one of the largest investment firms in the country; and

o The knowledge and experience of Your Wheat Financial Consultant.

The "Combined Asset Value" of Your CRA consists (subject to the limitations set out in Section VII.6 herein) of the total of:

o the cash in Your Securities Account unencumbered by liens for securities transactions as computed in accordance with Section II.A.4. herein (the "Free Credit Balance"), if any; plus

o the value of Your Reinvestment Cash in PIP (See Section II.B. herein), if any; plus

o the available Margin Loan Value of Your Securities Account (as defined in Section I.C.4 herein), if any.

SPECIFIC ACCOUNT TERMS AND CONDITIONS

In consideration of Wheat accepting and carrying a CRA in the name of the Institution on whose behalf the CRA Agreement is signed or the Individual signing the CRA Agreement, and agreeing to act as Your broker, You agree to the following with respect to any of Your accounts with Wheat, in which You currently or in the future have an interest, for the extension of credit or the purchase or sale of securities, options or other property:

Any reference to "You" or "Your" or gender shall include the Institution on whose behalf the CRA Agreement is signed (other than Wheat), as well as all individuals (jointly and severally or beneficial or are legally obligated on this Account) signing the CRA Agreement, including persons who are directors and officers of Corporations, hold similar positions in Non-Profit or other Non-Corporate Organizations, partners of Partnerships, executors, executrices, personal representatives of Estates, trustees, administrators and investment advisors of Pension Plans and the trusts created therefor, trustees of all other Trusts, Custodians, Guardians and the beneficiaries of all such arrangements.

Any reference to "Wheat" includes its subsidiaries, affiliates, its and their directors, officers, employees and agents. Wheat is a non-bank subsidiary of First Union Corporation ("First Union"). As used herein, the terms "affiliate of Wheat" and "Wheat's affiliate(s)" means First Union and its subsidiaries, affiliates, including without limitation, Wheat and First Union. Each of Wheat and its affiliates is a separately incorporated legal entity, none of which is responsible for the obligations of the others. Where the context requires, the singular shall be plural and the plural shall be singular.

⁴Margin accounts are not available to Pension Plans, Investment Clubs, unincorporated associations, Custodians or Guardians, and may not be available to other Institutions. Margin accounts are available to unincorporated associations only upon prior approval of the manager of the Wheat office opening the CRA.

⁵As long as there are positions other than Fund shares in your CRA, an Account Statement will be issued monthly for each month in which there is activity in Your CRA. If there is no activity in your CRA, you will receive an Account Statement quarterly.

Any reference to "Assets" includes, but is not limited to, money, securities and commodities of every kind and nature and all contracts, investments and options relating thereto, whether for present or future delivery.

I. YOUR WHEAT SECURITIES ACCOUNT (INCLUDING MARGIN)

The "Securities Account" is a conventional Wheat margin account, the primary purpose of which is to purchase and sell securities and other property. The terms are as follows:

A. BASIC TERMS AND CONDITIONS

1. **PREVIOUS AGREEMENTS.** If You have a Wheat Securities Account that is becoming part of Your CRA, Your Securities Account will now be governed by, and be subject to the provisions of this Agreement, superseding any and all agreements and documents which You have signed in connection with the opening of Your Securities Account, except to the extent, and only to the extent, related to matters not specifically covered by this Agreement.

2. **ORDERS AND INSTRUCTIONS.** You hereby authorize and instruct Wheat to accept from any one of the persons specified on the CRA Agreement, without the need or obligation for further inquiry, any and all orders and instructions for and concerning Your Securities Account, in regard to the following:

- a. the purchase or sale (long or short) of securities, options, and/or commodities contracts;
- b. the holding or payment of money;
- c. the registration and delivery of securities and, if applicable, options, and/or commodities contracts; and
- d. any other action with respect to Your Securities Account.

3. **CANCELLATION PROVISIONS.** Wheat is authorized, in its sole discretion, without notice to You, to cancel any outstanding orders or to close out Your Securities Account, in whole or in part, or to close out any position made on Your behalf. If this is a Securities Account for a Partnership with only one general partner or if this is an Individual CRA, Wheat, in its sole discretion, is authorized to take the same actions enumerated in the previous sentence in the event that the sole general partner or You should die or become incapacitated or insolvent.

4. **INTEREST.** Interest may be charged for an extension of credit which is not directly related to purchases on margin. The minimum interest rate charged shall be that charged to margin accounts (described in Section I.C.1, herein), and the maximum interest rate charged shall be the highest rate permitted by applicable law. Examples of such extensions of credit include, but are not limited to, prepayments on securities sold and late payments received in Securities Accounts that are ineligible for, or have opted out of margin.

5. **ORDER FLOW.** Wheat's automated computer systems and its trading procedures for equity securities enable it, in those situations where You have not directed Wheat otherwise, to route Your orders to market centers including other broker-dealers which, based on Wheat's experience, combine price, speed and size to provide You with what it believes are best executions. Whenever possible, Wheat routes such orders to dealers or market centers that have the opportunity to provide execution at prices superior to the nationally displayed

best bid or offer. You acknowledge that Wheat receives payment per share, or in some cases, reciprocal order-flow considerations from dealers and credits against exchange fees for certain orders that Wheat routes or directs.

MARGIN ACCOUNTS ARE NOT AVAILABLE TO PENSION PLANS, INVESTMENT CLUBS, UNINCORPORATED ASSOCIATIONS, CUSTODIANS OR GUARDIANS. CONSEQUENTLY, THE PROVISIONS OF SECTIONS B, C AND D OF THIS ARTICLE I WILL NOT APPLY TO THE HOLDERS OF THOSE TYPES OF ACCOUNTS. ANY CRA THAT DOES NOT HAVE A MARGIN ACCOUNT WILL NOT HAVE "OVERDRAFT" PROTECTION TO PAY DEBITS AND CHECKS IN EXCESS OF THE COMBINED ASSET BALANCE OF THAT CRA. MARGIN ACCOUNTS MAY NOT BE AVAILABLE TO OTHER INSTITUTIONS, WHICH SHOULD CONSULT THEIR LEGAL ADVISORS. SUCH INSTITUTIONS SHOULD OPT OUT OF MARGIN PURSUANT TO THESE TERMS AND CONDITIONS, AND ACCORDINGLY, SUCH INSTITUTIONS WILL NOT HAVE "OVERDRAFT" PROTECTION. FAILURE TO OPT OUT OF MARGIN ON THE CRA AGREEMENT WILL BE DEEMED A POSITIVE CERTIFICATION TO WHEAT THAT YOU MAY LEGALLY ENGAGE IN MARGIN TRADING AND DESIRE TO DO SO.

B. PROVISIONS FOR MARGIN ACCOUNTS

1. **EXTENSION OF CREDIT ON MARGIN.** Subject to the provisions hereof, Wheat shall have the option, but not the obligation, to loan You money for the purchase and/or sale of securities, as well as for other permissible unrelated purposes. You agree that all securities held, carried or maintained by Wheat in its possession for any accounts You maintain at Wheat shall be collateral for such extensions of credit.

2. **MARGIN MAINTENANCE AND DISCLOSURE REGARDING LIQUIDATION.** You agree to maintain such positions as required by all applicable laws, rules, regulations, procedures and customs, or as Wheat deems necessary or advisable. You agree to satisfy promptly all margin and maintenance calls. You understand that Wheat is not obligated to request additional margin from You in the event Your Securities Account falls below minimum maintenance requirements, and Wheat may liquidate securities, commodities and/or other property in Your Securities Account, without notice to You, to ensure that minimum maintenance requirements are satisfied.

3. **MINIMUM MARGIN REQUIREMENT.** Pursuant to the rules of The New York Stock Exchange and Wheat, the initial minimum equity required to use margin is presently \$2,000. As a result, the total of Your Free Credit Balance and the value of Your Fund shares plus the value of Your other marginable securities must be greater than \$2,000 in order to utilize the margin feature of Your Account.

4. **LIQUIDATION.** Wheat shall have the right, in accordance with its sole discretion regarding its margin maintenance requirements, which may be modified, amended or supplemented from time to time (with or without notice to You), or whenever Wheat considers it necessary for its protection: to require additional collateral at an earlier or later time than called for by Wheat's general policies; to sell any or all Assets in Your Securities Account or any other account which You maintain with Wheat, whether carried individually or jointly with others; to buy on Your behalf any or all securities, commodities or other property which may be short in Your Securities Account; to cancel any open orders; and/or to close any or all outstanding contracts, without demand for margin or additional margin, notice of sale or purchase, or other notice to You or advertisement. Any such sales or purchases may be made at Wheat's sole discretion on any exchange or other market where such business is usually transacted, or at public auction or private sale; and Wheat may be the purchaser for its own account at any such sale. It is understood that a prior demand, call or prior notice of

the time and place of such sale or purchase shall not be considered a waiver of Wheat's right to sell or buy without demand or notice as herein provided.

5. **PAYMENT OF INDEBTEDNESS UPON DEMAND.** Debit balances represent money loaned to You. You shall at all times be liable to Wheat for the full payment of debit balances or other obligations owing in Your Securities Account or any other account You have with Wheat, and You shall be liable to Wheat for any deficiency remaining in any such accounts in the event of the liquidation thereof, in whole or in part, by Wheat or by You. YOU

SHALL PAY SUCH OBLIGATIONS AND INDEBTEDNESS TO WHEAT PROMPTLY UPON DEMAND.

TO THE EXTENT PERMITTED BY LAW, IN THE EVENT THAT YOU DO NOT PAY WHEAT THE DEBIT BALANCE (OR SUCH LESSER PORTION THEREOF AS MIGHT BE DEMANDED) IN YOUR SECURITIES ACCOUNT WITHIN FIVE (5) DAYS OF DEMAND BY WHEAT, OR SUCH LESSER PERIOD AS MAY BE REQUIRED BY LAW, CONSTITUTION OF AN EXCHANGE, RULE OR REGULATION, OR FAIL TO PROVIDE ADDITIONAL COLLATERAL SATISFACTORY TO WHEAT UPON DEMAND BY WHEAT, THE INTEREST RATE SHALL, AT THE OPTION OF WHEAT, BE INCREASED FROM THE RATE DESCRIBED IN SECTION I.C.1. TO A RATE EQUAL TO THE SUM OF THE PRIME RATE OR WHEAT'S COST OF BORROWING MONEY (AS APPLICABLE) AND TEN PERCENT (10%), WHICH RATE SHALL CONTINUE UNTIL FULL PAYMENT OR THE FURNISHING OF SUCH ADDITIONAL COLLATERAL, AS APPLICABLE.

To the extent permitted by law, the costs and expenses of enforcement of any of Wheat's rights under this Agreement or collection of any debit balance and any unpaid deficiency in any of Your accounts with Wheat, including attorneys' fees incurred and payable or paid by Wheat, shall be payable to Wheat by You promptly upon demand.

6. **PLEDGE OF ASSETS.** All Assets held, carried or maintained by Wheat in its possession, in Your CRA or in any of the accounts You maintain at Wheat may be pledged and repledged by Wheat from time to time, without notice to You, for any amount due in Your accounts, or for any greater amount, and Wheat may do so without retaining in Wheat's possession or control for delivery a like amount of similar securities, commodities and/or other property.

You agree that all securities pledged to Wheat for any margin loan that You may obtain from Wheat are freely transferable and are not subject to any restrictions on resale under any applicable federal or state securities laws or otherwise, and are not "restricted," "legended," or an affiliate's "control" stock (the "Transferable Securities"). Any securities subject to such restrictions are referred to as "Restricted Securities." If You deposit Restricted Securities in violation of this Agreement and You do not upon demand immediately replace such Restricted Securities with Transferable Securities satisfactory to Wheat or pay in full the margin loan secured by such Restricted Securities, You agree that You will be in default under this Agreement and that, at Wheat's election, Wheat may take any or all of the following actions:

a. **LIQUIDATE COLLATERAL.** Liquidate any Transferable Securities or, to the extent permitted by law, any Restricted Securities held in Your margin account, or any other account with Wheat in which You have an interest, to satisfy the debit balance secured by the Restricted Securities;

b. **SET OFF.** Set off against the debit balance secured by such margin loan any amounts held in any other accounts You maintain with Wheat;

c. **DEFAULT RATE OF INTEREST.** Until such time as the default is cured and in substitution for any other rate of interest specified in this Agreement, charge interest at the default rate set out in Section I.C.1. on the debit balance of all margin accounts which You maintain with Wheat and debit such accounts from time to time for such interest (provided, however, that You acknowledge that in no event does Wheat intend to charge a rate of interest in excess of the maximum rate permitted by applicable law and, in the event such rate of interest is in excess of the permitted rate, Wheat agrees that any excess interest so charged shall at Your option either be returned to You or applied to Your Account);

d. **DEMAND IMMEDIATE PAYMENT.** Demand immediate payment in full of the margin loan secured by such Restricted Securities; or

e. **OTHER REMEDIES.** Assert any other remedies available to Wheat under applicable law to collect all amounts that You owe to Wheat.

The provisions of the foregoing paragraph 6 shall not apply to any Restricted Securities that have been approved in writing as collateral for extensions of credit to You by Wheat's Managing Director of Operations, or his designee, in its principal office in Richmond, Virginia. You acknowledge and agree that Wheat may at any time, in its sole discretion and with or without notice to You, cancel its approval of the use of Restricted Securities as collateral for extensions of credit, and thereupon exercise any and all of its remedies as specified in this Agreement, including but not limited to this Section I.B.6.

7. **APPLICATION TO GENERAL PARTNERS.** All the provisions of this Section I.B. shall apply to, without limitation, each general partner of a partnership, jointly and severally.

C. MARGIN DISCLOSURE

1. **MARGIN INTEREST CHARGES.** The interest charge made to Your Securities Account at the close of a charge period will be added to the opening balance for the next charge period unless paid in full. An annual rate of interest is calculated daily on the settled debit after considering all account types plus the value of any short security positions (the "Daily Adjusted Debit Balance") in Your Securities Account. It is computed at a selected rate above the Prime Rate or Wheat's actual Cost of Borrowing Money, whichever is higher, per the following schedule:

<u>Daily Adjusted Debit Balance (In U.S. Dollars)</u>	<u>Selected Rate over the Prime Rate or Cost of Borrowing Money⁶ (whichever is greater)</u>
0 - 19,999.99	11/2%
20,000 - 49,999.99	1%
50,000 - 99,999.99	3/4%
100,000 and over	1/2%

2. **CALCULATION OF INTEREST CHARGES.** Interest is calculated monthly on the Daily Adjusted Debit Balance in Your Securities Account, which is arrived at by the calculations described in Paragraphs b., c. and d. of Section I.C.3. Each month, You will receive, within Your Account Statement, a Statement of Interest Charged. This latter statement will show the interest period. Your Account Statement will show each transaction on the date of trade; however, interest as shown on the Statement of Interest Charged is calculated on a settlement date basis. In order to check the calculation of interest charged to Your Securities Account, it may be necessary to refer to the Account Statements for both Your prior and current periods.

3. **STATEMENT OF INTEREST CHARGED.** The Statement of Interest Charged will show:

- a. The current selected rate used in any calculations and any changes in such rate during the interest period.
- b. The daily net balance of all transactions which is obtained by adding the daily closing settlement balances in Your Securities Account and dividing by the number of days in the month. The net balance will be determined by adding the opening balance, if any, to any debit created by purchases by You or payments to You (including authorized periodic debits, Debit Card transactions, VISA(R) GOLD Check Card transactions and/or Checks) and subtracting any credits created by sales or payments by You.
- c. Any Free Credit Balance in Your Securities Account (which reduces the daily net debit balance).⁷
- d. Any mark-to-the-market as a result of a short position, I.E., any credit that appears on Your statement due to short sales (including short sales against the box) will be used to reduce any debit balances.⁷
- e. The number of days Your Securities Account had a debit balance.

⁶As used herein, the term "Prime Rate" means the commercial lending rate announced from time to time as its prime rate by a bank or banks selected by Wheat. The "Cost of Borrowing Money" shall be the higher of (a) the interest charged Wheat by a bank doing business in Virginia on loans collateralized by securities; or (b) the interest rate charged Wheat by a bank doing business in Virginia on loans for business purposes. The Prime Rate and/or Cost of Borrowing Money will fluctuate periodically and will result in an automatic change (increase or decrease) in the interest rate without prior notice. If there is a change in the interest rate due to a change in the Prime Rate and/or Cost of Borrowing Money during any interest period, separate charges will be shown for each period under each different rate on the Statement of Interest Charged.

Please note that a divisor of 360 days is used in determining the interest charged as described in Section I.C.3.g. The use of this divisor will affect the actual interest charged on an annualized basis, and will result in a slightly higher rate on such an annualized basis than that selected rate described above and quoted on Your Statement of Interest Charged. In no event shall interest exceed the highest rate permitted by law. In the event that use of the Prime Rate or the Cost of Borrowing Money as an index, or any computation method would result in an interest rate which exceeds such maximum rate, then the lower of such indices or another method of computing interest will be used to compute interest at a rate not in excess of the maximum rate permitted. In the event interest is charged to Your Account which exceeds the highest rate permitted by law, Your exclusive remedy is to have such excess interest returned or credited to Your Account.

⁷Since Wheat must borrow the same security in order to deliver it to the buying broker, this credit is not available to You. Therefore, on a daily basis, the market value of securities sold short is debited against Your margin balance in order to arrive at an adjusted debit balance for interest purposes. The daily closing price is used to determine any appreciation or depreciation of a security sold short which will, in turn, adjust Your daily net balances. This practice is known as "marking-to-the-market."

f. The Daily Adjusted Debit Balance on which interest is charged.

g. The amount of interest, based upon the following formula:

$$\begin{array}{ccccc} \text{Daily Adjusted Debit Balance} & & \times & \text{Rate} & \times & \text{Number of Days} \\ & & & & & \text{in Period} \\ & 1 & & 100 & & 360 \end{array}$$

h. Total interest charge for the period.

4. **MARGIN LOAN VALUE.** As used herein, the "Margin Loan Value" of Your Securities Account is the product of the market value of the marginable securities held in "Street Name" in Your Securities Account times the current percentage set by the Federal Reserve Board pursuant to Regulation T, and may be further adjusted by Wheat's internal rules and regulations governing margin accounts generally (as modified, amended and supplemented from time to time).

D. PROVISIONS FOR OPTIONS AND/OR COMMODITIES ACCOUNTS

You may request the ability to engage in options and/or commodities transactions within Your Securities Account. These are optional services that are not provided to all CRA clients. If Your investment strategy requires the ability to engage in options and/or commodities transactions, please contact Your Wheat Financial Consultant. He or she will give You the necessary additional documentation to be completed. **SIGNING THE CRA AGREEMENT ALONE DOES NOT ENABLE YOU TO ENGAGE IN EITHER OPTIONS OR COMMODITIES TRANSACTIONS IN YOUR SECURITIES ACCOUNT.**

PENSION PLANS, CUSTODIANS, GUARDIANS, PIM, ADVISORY ACCOUNTS AND WHEAT NAVIGATOR PLUS ACCOUNTS ARE NOT PERMITTED TO ENGAGE IN COMMODITIES TRANSACTIONS AND POSSIBLY CERTAIN TYPES OF OPTIONS TRANSACTIONS. OTHER INSTITUTIONS MAY BE UNABLE TO ENGAGE IN ONE OR BOTH OF THESE STRATEGIES, AND SHOULD CONSULT THEIR LEGAL ADVISORS.

II. THE WHEAT AUTOMATIC CASH INVESTMENT SERVICE (THE "SERVICE")

This section of the Agreement sets forth the terms and conditions with respect to the Service, which provides for the automatic investment of the Free Credit Balance in Your Securities Account in shares of the portfolio of the Fund You have designated on the CRA Agreement, and automatic redemption thereof. **IF YOU DO NOT DESIGNATE A FUND PORTFOLIO ON THE CRA AGREEMENT, YOU WILL BE DEEMED TO HAVE SELECTED THE GOVERNMENT SECURITIES PORTFOLIO.**

Your CRA can purchase Fund shares with an initial balance (cash and/or subject to certain restrictions, marginable securities) in Your CRA of \$1.00. Your dividends and interest from securities other than the Fund will be distributed based on the standing instructions in Your Securities Account, so that the Service may not operate in whole or in part if, for example, You are having Your dividends and interest sent out. The Service cannot operate if You are having the proceeds from the sale of securities held in Your Securities Account. Unless specifically advised to the contrary, all of Your Fund dividends will automatically be reinvested in shares of the portfolio of the Fund You have designated.

The terms of and conditions of Fund transactions generally, and of the Service are as follows:

1. **FUND PROSPECTUS.** By signing this Agreement, You acknowledge that You have received a copy of the current prospectus of the Fund which contains a more complete description of the Fund, its operation and its fees and expenses.

2. **AUTOMATIC INVESTMENT IN FUND SHARES.** After Your initial Fund share purchase, Your Securities Account will be periodically reviewed and transactions between Your Fund shares and Securities Account will be initiated, based on the standing instructions in Your Securities Account for securities and cash disposition (in accordance with the rules established by Wheat for operation of the Service), as follows:

a. On a weekly basis (or a daily basis, if You are a Pension Plan, if You are participating in the CRA Gold Package and Your Free Credit Balance equals or exceeds \$500 or if Your Free Credit Balance equals or exceeds \$5,000), the Free Credit Balance available in Your Securities Account, will be applied to a purchase of shares of the Fund. This purchase will be adjusted by the amount due for any settling transaction(s) in Your Securities Account.

b. As needed after utilization of any Free Credit Balance in Your Securities Account, an automatic liquidation of Your shares held in the Fund will be made to satisfy the unpaid portion of any transaction(s) in Your Securities Account (including ATM, Point of Sale and authorized periodic payments and Check transactions) or other activity which causes a net debit balance. Such liquidations will take place so as to make funds available to Wheat on the settlement date of any securities transactions, or as soon as possible thereafter in the settlement of a net debit balance caused by bookkeeping activity.

3. **INSUFFICIENT HOLDINGS IN FUND.** An automatic liquidation of Your Fund shares to pay for transactions in Your Securities Account will take precedence over payment of a Check, an authorized periodic payment, a Debit Card debit transaction or VISA(R) GOLD Check Card debit transaction, should You have insufficient shares of the Fund to cover all such transactions. After exhaustion of Your Fund shares, Your then available Margin Loan Value will be used to pay for these transactions. Should that source be exhausted, You understand that transactions may not be honored, and that You will be liable to satisfy any insufficiency in accordance with the provisions of this Agreement or any laws, rules and regulations applicable to the CRA, to the Fund, to the Investors Money Cardsm Account Agreement, to the Debit Card, to the VISA(R) Gold Check Card or to Checks.

4. **SERVICE FEE.** In addition to the Fund's fees and expenses, You understand that Wheat will charge a service fee of .0167% (17 cents per \$1000) per month on all Fund balances. This equates to .20% annually. However, Wheat does not receive such fees on Pension Plans and Individual Retirement Accounts for which Wheat or one of its affiliates agrees in writing that it acts in a fiduciary capacity. The fee is deducted automatically from monthly income in the form of a reduction in the dividends You receive. The dividends appearing on Your Account Statement are net of this fee.⁸

5. **SHAREHOLDER ACCOUNTING.** Wheat is responsible for all shareholder accounting for Your Fund shares. If You have any questions about this service or Your balance, You should contact Your Wheat Financial Consultant rather than the Fund's investment manager, Mentor Investment Advisors, LLC.

6. **COMPUTATION OF FREE CREDIT BALANCE.** For purposes of this Agreement, the Free Credit Balance available in Your Securities Account for the purchase of Fund shares will be the credit balance adjusted by:

⁸The aggregate service fee for the year is added back to Your net dividends and the total is reported as the dividends received on Your Annual Tax Summary. You should consult Your tax advisor as to the deductibility of this service fee.

a. the proceeds of the sale of any security that have not settled or have not been received by Wheat in negotiable form; and

b. the amount of any Free Credit Balance in Your Securities Account required by margin rules and regulations to maintain a bona fide short sale position, uncovered short option position or pending mark-to-market transaction, if applicable.

7. ORAL INSTRUCTIONS TO WHEAT. You may request an expedited redemption of Fund shares by contacting Your Wheat Financial Consultant. You agree that Wheat may rely upon any oral instructions to Your Wheat Financial Consultant from any one (1) of the persons specified on the CRA Agreement, and that no written confirmation of these oral instructions need be given by You, unless requested for any reason by Wheat.

8. CONFIRMATIONS FOR EACH TRANSACTION. Your Account Statement from Wheat will detail transactions in the Fund, distributions of additional shares reflecting the current month's earnings, electronic transfer of funds (including direct deposit and authorized periodic payments), ATM and Point-of-Sale debit transactions, VISA(R) GOLD Check Card transactions and checkwriting activity during the preceding period. Neither the Fund nor Wheat will send out a confirmation on each occasion of a Fund share transaction. Accordingly, You hereby waive any and all requirements (including, without limitation, any federal or state requirements) that You receive confirmations of each transfer made between Your Fund shares and Securities Account pursuant to the Service, and will rely instead upon Your Account Statement. You understand that these Account Statements should be carefully reviewed by You. You should receive a receipt each time You effect an ATM, Point-of-Sale or VISA(R) Gold Check Card transaction.

9. FORCE MAJEURE. You understand that neither Wheat nor the Fund shall be liable for any loss caused directly or indirectly by government restrictions, exchange or market rulings, suspension of trading, war, strikes or other conditions, commonly known as "Acts of God," beyond Wheat's or the Fund's control.

10. TERMINATION OF THE SERVICE. You understand that the Service will automatically be terminated if for any reason Your Securities Account is closed. You also understand that Wheat may terminate the Service at any time, with or without notice, all without any liability therefor.

III. CHECKWRITING PRIVILEGES

Checkwriting is provided by a combination of the use of the Free Credit Balance in Your Securities Account and redemption drafts against Your shares in the Fund in that order of priority (collectively, Your "Access Balance"). Each Check is a draft, which is an authorization to Wheat to access Your Combined Asset Value and is payable through IFTC. There is no minimum amount for which checks must be written. Currently, the maximum amount is limited to \$5 million.

Overdraft protection is provided up to the Margin Loan Value of Your Securities Account. In the event a Check is presented for an amount in excess of Your Combined Asset Value and You have a sufficient Margin Loan Value in Your Securities Account to cover it, Wheat will use this source to loan You the money. Consequently, Pension Plans, unincorporated associations, Investment Clubs, Custodians and Guardians will not have overdraft protection. Checkwriting is not available to Advisory Accounts. The following terms and conditions apply to the Checkwriting Privilege:

1. **FORMS.** Checks must be on draft forms approved by the Fund and provided by IFTC. Currently, canceled Checks are returned to You.

2. **PENSION PLANS.** If You are a Pension Plan, You acknowledge and agree that permitting a plan participant to be an authorized signer of Checks is a practice strongly discouraged by Wheat. If You nonetheless authorize a plan participant to sign Checks on Your CRA, You hereby agree to defend and hold Wheat, the Fund, IFTC and their respective agents harmless for any costs and expenses (including, without limitation, attorneys' fees) of the direct and indirect consequences of such action, including without limitation, failure to perform tax withholding, excise taxes on prohibited transactions (as defined in ERISA) or tax reporting penalties.

3. **LIQUIDATION OF FUND SHARES.** IFTC will notify Wheat each business day of the daily total of Your Checks presented to IFTC for payment. To the extent Your Free Credit Balance is not sufficient to cover all checks, You authorize Wheat to liquidate Your Fund shares as if You had contacted Wheat directly on each and every such occasion.

4. **INSUFFICIENT LIQUIDITY.** In the event that a Check or Checks are presented, the total dollar amount of which exceed Your Combined Asset Value, Wheat will, up to the available Margin Loan Value of Your CRA, loan You the sums necessary to pay the Check or Checks so presented. You authorize Wheat to advance You the amount of such transaction(s) from the available Margin Loan Value of Your Securities Account, if any.

5. **INSUFFICIENT VALUE.** Checks presented in excess of the amounts available from Your CRA's Combined Asset Value will not be honored, and each such check may subject Your Securities Account to a fee. See the Fee Schedule attached hereto for details. **REPEATED OCCURRENCES MAY RESULT IN**

SUSPENSION OF YOUR CHECKWRITING, DEBIT CARD AND VISA(R) GOLD CHECK CARD.

6. **NUMBER OF SIGNERS.** Checks must be signed exactly as the name(s) appears on the CRA Agreement. Checks must be signed by the designated number of duly authorized Account signatories. **IN JOINTLY OWNED ACCOUNTS, IT WILL BE CONCLUSIVELY PRESUMED THAT EITHER OWNER WILL BE AUTHORIZED TO SIGN CHECKS UNLESS YOU MARK THE BOX ON THE AGREEMENT REQUIRING ALL ACCOUNT OWNERS TO SIGN.** If the CRA is held for the benefit of an Institution and Wheat receives written notice from the Institution of a revocation of an authorization to sign, then a new Agreement must be executed and submitted.

7. FUND'S PROSPECTUS. The checkwriting privilege is subject to the terms of the Fund's prospectus, as amended from time to time, and subject to acceptance by the Fund.

8. WHEAT'S, FUND'S AND IFTC'S RULES. In addition to the Fund's prospectus, the redemption and checkwriting privileges are subject to Wheat's, the Fund's and IFTC's rules and regulations, as amended from time to time.

9. SUSPENSION OF PRIVILEGE. Wheat, the Fund and/or IFTC may refuse to honor Checks and may refuse to effect redemptions to pay Checks whenever the right of redemption has been suspended or postponed, whenever Wheat, the Fund and/or IFTC, in their sole discretion, deem it necessary for its or their protection (with or without notice), or whenever Your Securities Account is otherwise impaired.

10. EXAMINATION. You agree to examine statements and canceled Checks, and to notify Wheat of any unauthorized or missing signature or endorsement or alteration on the Checks or errors on the statements resulting therefrom within thirty (30) days after mailing to You. Failure to do so shall preclude any claim against Wheat, the Fund, IFTC, or their agents by reason of any unauthorized or missing signature or endorsement, alteration, error or forgery of any kind.

11. STOP PAYMENTS. You may request a "stop payment" of a Check or series of Checks. The "stop payment" feature is subject to the following terms and conditions:

a. You may place a "stop payment" against a Check or Checks by contacting the Wheat Operations Center directly at the address and telephone numbers shown in Section IV.D.3. herein. However, if You contact Wheat by some means other than contacting the Wheat Operations Center directly as shown, such as by contacting Your Financial Consultant, it will delay the initiation of the stop payment order, and possibly result in payment of the item(s) in question. You should never attempt to initiate a stop payment order by contacting either the Fund or IFTC.

b. Generally, stop payment orders communicated to the Wheat Operations Center by 1:00 p.m., eastern time, on a day when Wheat, the Fund and IFTC are open, will be effective that day. Stop payment orders received after that time will be effective on the next business day when Wheat, the Fund and IFTC are open.

c. A Check or Checks already in the payment process cannot be stopped, regardless of when a stop payment order is received.

d. Your stop payment orders on a Check or Checks will be effective for six (6) months.

e. Wheat will impose a charge for each stop payment order placed. See the Fee Schedule attached hereto for details.

f. Stop payment orders will not appear on Your Account Statement.

g. In no event will Wheat, the Fund and/or IFTC guarantee the effectuation of, or be liable for any "stop payment" requested on a Check or Checks. You agree to defend and hold Wheat, the Fund and IFTC harmless for the amount(s) of any Check(s) subject to stop payment order(s) entered by You or on Your behalf, and for all costs and expenses (including attorneys' fees) incurred by all or any one of them by

reason of the refusal to honor said Check(s), and You further agree that if, contrary to such stop payment order(s), payment is nevertheless made through inadvertence, accident or oversight, none of Wheat, the Fund nor IFTC will be liable therefor, nor shall they, or any one of them, be liable with respect to other Checks drawn by You which are returned for insufficient funds because of such payment, or for indirect or consequential damages resulting from such payment. This provision shall survive the termination of Your CRA for any reason.

IV. OPTIONAL DEBIT FEATURES, AND AUTOMATIC DEPOSITS TO AND PAYMENTS FROM YOUR CRA

A. OPTIONAL DEBIT CARD

If You elect the CRA Standard Package, You may further elect to receive a Debit Card that will enable You to access the Combined Asset Value of Your CRA through the PLUS SYSTEM(R) worldwide 24 hours a day in over 240,000 locations from participating ATMs and also at BankMate(R) Point-of-Sale terminals. YOU WILL NOT BE ABLE TO USE THE DEBIT CARD TO DEPOSIT MONEY TO OR ASCERTAIN THE VALUE OF YOUR CRA, PURCHASE FUND SHARES OR TO TRANSFER MONEY BETWEEN ACCOUNTS. THE DEBIT CARD IS NOT A CREDIT CARD.

1. **ISSUANCE OF CARD.** The Bank, as the issuer of the Card, is a member of the PLUS SYSTEM(R) and the BankMate(R) System. By checking the "YES" box under the CRA Standard Package in the CRA Agreement, You will be requesting the Bank to issue You a Debit Card. You will receive one (1) Debit Card if Your Account is registered in a single name, and two (2) Cards if a joint account. The Bank will send You, under separate cover, a Disclosure Statement setting forth the disclosures required by Regulation E of the Board of Governors of Federal Reserve System ("Regulation E") (see Section IV.D. herein) with respect to electronic fund transfers made with Your Debit Card. THE DEBIT CARD IS AN OPTIONAL SERVICE, AND UNLESS YOU SELECT THE CRA STANDARD PACKAGE ON THE CRA AGREEMENT, NO DEBIT CARD(S) WILL BE SENT TO YOU.

2. **DAILY LIMITS OF DEBIT CARD TRANSACTIONS.** Cash withdrawals or purchases using the Debit Card (both ATM withdrawals and Point-of-Sale debits) are limited to \$300 per Account per day. There may be charges for such transactions. See the Fee Schedule attached hereto for details.

3. **POINT-OF-SALE TRANSACTIONS.** Use of Your Debit Card to purchase goods and services at Bank Point-of-Sale terminals will constitute a simultaneous withdrawal from and/or demand upon Your CRA, although the transaction may not be posted to Your CRA until a later date. The Combined Asset Value of Your CRA must be sufficient to cover the transaction on the date that You initiate it.

4. **THE DEBIT CARD BELONGS TO THE BANK.** The Debit Card remains the property of the Bank, and the Bank and Wheat have the right to refuse to issue the Debit Card or to revoke the Debit Card at any time with or without cause or notice. You must surrender a revoked Debit Card to the Bank or Wheat upon demand or upon knowledge of its revocation, and You may not use an expired or revoked Debit Card.

B. OPTIONAL VISA(R) GOLD CHECK CARD

If You have an initial investment in Your CRA of at least \$5,000, You may elect the CRA Gold Package which will entitle You to receive a VISA(R) GOLD Check Card that will enable You to access the Combined Asset Value of Your CRA through the VISA(R) SYSTEM worldwide 24 hours a day in millions of locations from participating ATMs and vendors. The VISA(R) GOLD Check Card is not a Credit Card. YOU WILL NOT BE ABLE TO USE THE VISA(R) GOLD CHECK CARD TO DEPOSIT MONEY TO OR ASCERTAIN THE VALUE OF YOUR CRA, PURCHASE FUND SHARES OR TO TRANSFER MONEY.

BETWEEN ACCOUNTS. In addition, You will be assessed an annual fee for participation in the CRA Gold Program. See the Fee Schedule attached hereto for details.

1. **ISSUANCE OF VISA(R) GOLD CHECK CARD.** IFTC, as the issuer of the VISA(R) GOLD Check Card, is a member of the VISA(R) System. By selecting the CRA Gold package on the CRA Agreement, You will be requesting IFTC to issue You a VISA(R) GOLD Check Card. You will receive up to two (2) Cards as part of the CRA Gold Package, although two (2) additional cards may be issued for an additional fee. See the Fee Schedule attached hereto for details. IFTC will send You, under separate cover, an Investors Moneycardsm Account Agreement setting forth the disclosures required by Regulation E with respect to electronic fund transfers made with Your VISA(R) GOLD Check Card.

2. **DAILY LIMITS OF VISA(R) GOLD CHECK CARD TRANSACTIONS.** ATM cash withdrawals using the VISA(R) GOLD Check Card are limited to \$600 per Account per day and purchases of goods and services using the VISA(R) GOLD Check Card are limited to Your Combined Asset Value.

3. **PURCHASE OF GOODS AND SERVICES.** Use of Your VISA(R) GOLD Check Card to purchase goods and services will constitute a simultaneous withdrawal from and/or demand upon Your CRA. Although the transaction may not be posted to Your CRA until a later date, the Combined Asset Value of Your CRA must be sufficient to cover the transaction on the date that You initiate it.

4. **THE VISA(R) GOLD CHECK CARD BELONGS TO IFTC.** The VISA(R) GOLD Check Card remains the property of IFTC. IFTC and Wheat have the right to refuse to issue the VISA(R) GOLD Check Card or to revoke the VISA(R) GOLD Check Card at any time with or without cause or notice. You must surrender a revoked VISA(R) GOLD Check Card to IFTC or Wheat upon demand or upon knowledge of its revocation. You may not use an expired or revoked VISA(R) GOLD Check Card.

C. ADDITIONAL PROVISIONS APPLICABLE TO HOLDERS OF THE DEBIT CARD AND THE VISA(R) GOLD CHECK CARD

NEITHER THE DEBIT CARD NOR THE VISA(R) GOLD CHECK CARD IS AVAILABLE TO PENSION PLANS, ADVISORY ACCOUNTS, NON-CORPORATE ORGANIZATIONS, NON-PROFIT ORGANIZATIONS, INVESTMENT CLUBS (AS PERMITTED), CUSTODIAN ACCOUNTS, GUARDIAN ACCOUNTS OR ESTATES. DEBIT CARDS OR VISA(R) GOLD CHECK CARDS ISSUED TO TRUSTS WILL BE SHOWN IN THE NAME OF THE TRUSTEE(S) ONLY.

1. **VERIFICATION OF TRANSACTIONS.** All Debit Card and VISA(R) GOLD Check Card transactions are subject to approval by Wheat, the Bank or IFTC, as applicable.

2. **STOP PAYMENTS.** You do not have the right to stop payment on any transaction originated with Your Debit Card or VISA(R) Gold Check Card.

3. **PERSONAL DEBIT CARD OR VISA(R) GOLD CHECK CARD AND PIN.** The Debit Card or VISA(R) GOLD Check Card (either a "Card") and Personal Identification Number ("PIN") are Your personal access devices to the Account. Your Card and PIN are issued to You for Your own use only. You are prohibited from authorizing or permitting anyone else to use Your Card and/or PIN. However, You will be responsible for authorized use of Your Card and PIN. Your use, or use by anyone with actual authority or for Your benefit, will be deemed an authorized use. In order to protect Your Card and PIN from an Unauthorized Transfer (as defined below), do not write Your PIN on Your Card, keep Your PIN with Your Card, or leave Your Card in the Terminal after completing Your transaction(s). Many Terminals allow multiple transactions to occur without re-entry, and

Wheat, the Bank and IFTC will not be liable for unauthorized Transfers which are the result of the Card being physically left in or at the Terminal.

D. AUTOMATIC DEPOSITS AND PAYMENTS

You may also have certain regular deposits and payments made electronically to Your CRA. Please see Your Wheat Financial Consultant for details and to obtain the necessary forms. These automatic deposit and payment transactions are effected for You through the facilities of the Bank. Due to this arrangement, deposits, such as direct deposit of Your salary check or Social Security or other benefits payments, must automatically be used to purchase Fund shares. Certain periodic payments or debits, such as insurance premiums or mortgage payments, may also be made electronically from Your CRA. These withdrawals will be made from Your CRA in the same sequence as checkwriting, I.E., Free Credit Balance, Fund Shares and then Available Margin Loan Value.

Any electronic fund transfer ("Transfer") that You make in connection with Your CRA, including, but without limitation, automatic deposits and payments, but excluding transactions with Your Card, will be governed by the following terms and conditions. These terms and conditions also serve as the disclosure required by the Electronic Fund Transfer Act and Regulation E in connection with Transfers.

PENSION PLANS MAY NOT AUTHORIZE BENEFIT PAYMENTS TO BE MADE ELECTRONICALLY TO THEIR PARTICIPANTS, AS THIS IS A COMPLICATED PROCESS BEST HANDLED BY THEIR PLAN ADMINISTRATORS[IN WHICH CAPACITY WHEAT CANNOT SERVE].

The terms and conditions of Transfers are as follows:

1. **UNAUTHORIZED TRANSFER.** "Unauthorized Transfer" means any Transfer from Your Account initiated by a person other than You without actual authority to initiate the Transfer and from which You receive no benefit.
2. **YOUR LIABILITY FOR UNAUTHORIZED TRANSFERS.** You could lose the Combined Asset Value of Your CRA through Unauthorized Transfers. Therefore, You should notify Wheat at once if You believe an unauthorized person has transferred or may transfer money from Your CRA Account without Your permission. Notifying Wheat as soon as possible by telephone could minimize Your possible losses. Wheat, IFTC, the Bank and their respective agents will not be liable in connection with any Unauthorized Transfer if Your Card and/or PIN has been lost or stolen, or if an unauthorized person has learned Your PIN.

a. INDIVIDUAL CRA

If You hold an Individual CRA and You notify Wheat within two (2) business days of the date You learn of an Unauthorized Transfer, You can lose no more than \$50. If You do not notify Wheat within two (2) business days after You learn of the Unauthorized Transfer, and Wheat can prove You could have stopped someone from making the Unauthorized Transfer if You had notified it, then You could lose as much as \$500.

Should Your Account Statement show Transfers that You did not make, please notify Wheat immediately. If You do not notify Wheat within 60 days after the Account Statement was mailed, You may not get back any of the money You lost after the 60 days if Wheat can show that it could have stopped the Unauthorized Transfer(s) if You had notified it in time.

The time periods referenced above may be extended if You have a good reason, such as a long trip or a hospital stay, which keeps You from notifying Wheat.

b. INSTITUTION CRA

If You have an Institution CRA, You are liable for all Unauthorized Transfers up to the time at which You notify Wheat.

3. NOTIFICATION IN THE EVENT OF UNAUTHORIZED TRANSFERS. If You believe that Your Card and/or PIN has/have been lost or stolen or that someone has transferred or may transfer money from Your CRA Account without Your permission, write or call Wheat immediately at the following address or telephone numbers:

Wheat First Securities, Inc. P.O. Box 6149 Glen Allen, Virginia 23058-6149 ATTN: Money Market Department (voice) 804-965-2342 (facsimile) 804-965-2214

4. BUSINESS DAYS. Wheat's business days are Monday through Friday. Holidays recognized by The New York Stock Exchange are not included.

5. LIMITS ON TRANSFERS. If the Combined Asset Value of Your CRA is adequate, in an Individual CRA, You may make any number and amount of Transfers. At present, there is no minimum amount required for automatic payment from any CRA. The availability of automatic deposits to Your CRA (whether Individual or Institution) will be governed by Wheat's funds availability policy.

6. CHARGES FOR TRANSFERS. There are currently no fees charged by Wheat for Transfers, except for Transfers by an Institution above its monthly limit.

7. ACCOUNT INFORMATION DISCLOSURE. Wheat will disclose information to third parties about Your CRA or the Transfers You make:

- a. when it is necessary for completing Transfers;
- b. in order to verify the existence and condition of Your CRA for a third party, such as a credit bureau or merchant;
- c. in order to comply with government agency or court orders; and
- d. if You give Wheat Your written permission.

8. YOUR RIGHT TO VERIFY DEPOSITS. If You have arranged to have direct deposits made to Your CRA at least once every 60 days from the same person or company, You can call Your Wheat Financial Consultant to verify such deposits.

9. STOP PAYMENT PROCEDURES.

a. INDIVIDUAL CRAS.

i. PROCEDURES. If You hold an Individual CRA and are having regular payments made from Your CRA, You can stop any of these payments. Simply write or call Wheat at the address or telephone number shown in Section IV.D.3. in time for Wheat to receive Your request three (3) business days or more.

before the payment is scheduled to be made. Wheat cannot accept an order to stop payment unless the exact amount and the account number are given. You should also indicate that the stop is for a preauthorized electronic payment. There is a fee for each stop payment order as provided in the attached Fee Schedule.

ii. NOTICE OF VARYING AMOUNTS. If a regular payment will vary in amount, the payee needs to tell You how much the payment will be at least ten (10) days prior to when it is due.

iii. LIABILITY FOR FAILURE TO STOP PAYMENT OF PREAUTHORIZED TRANSFERS. If You order Wheat to stop one of these payments three (3) business days or more before the Transfer is scheduled, and Wheat does not do so, Wheat will be liable for Your losses or damages.

b. INSTITUTION CRAS.

i. PROCEDURES. If You are having regular payments made from Your CRA, You can stop any of those payments by contacting the Wheat Operations Center directly at the address and telephone numbers shown in subparagraph IV.D.3 in time for Wheat to receive Your request three (3) business days or more before the payment is scheduled to be made. At the same time, You should notify the payee that it is no longer authorized to receive automatic payments from Your Account. If You fail to contact the payee and/or the payee re-submits the payment, Wheat will not be able to effectuate a stop payment. If You contact Wheat by some means other than contacting the Wheat Operations Center directly as shown, such as by contacting Your Wheat Financial Consultant, it will delay the initiation of the stop payment order, and possibly result in payment of the item(s) in question. You should never attempt to initiate a stop payment order by contacting the IFTC or the Bank. Wheat cannot accept an order to stop payment unless the exact amount and the Account number are given. You should also indicate that the stop is for a preauthorized electronic payment.

ii. NO LIABILITY. In no event will Wheat, IFTC and/or the Bank guarantee the effectuation of, or be liable for any "stop payment" requested on a preauthorized electronic payment. The Institution (including, without limitation, general partners of Partnerships) agrees to hold Wheat, IFTC and the Bank harmless for the amount(s) of any stop payment order(s) entered by You or on Your behalf, and for all costs and expenses (including attorneys' fees) incurred by both or either of them by reason of the refusal to honor said payment(s), and You further agree that if, contrary to such stop payment order(s), payment is nevertheless made through inadvertence, accident or oversight, neither Wheat, IFTC nor the Bank will be liable therefor, nor shall they, or either of them, be liable with respect to Checks drawn by You which are returned for insufficient funds because of such payment, for failure to complete any other Transfer because of a lack of funds caused by such payment, or for indirect or consequential damages resulting from such payment. This provision shall survive the termination of Your CRA for any reason.

c. ALL CRAS.

i. CHARGES. Wheat will impose a charge for each stop payment order placed. See the accompanying Fee Schedule.

ii. STATEMENTS. Stop payment orders will not appear on Your Account Statement.

iii. NO STOP PAYMENT FOR CARD TRANSFERS. You do not have the right to stop payment on any Transfer originated by use of Your Card.

10. AUTOMATED CLEARINGHOUSE TRANSFERS AND OTHER FUNDS TRANSFERS. Funds may be credited to, or debited from, Your CRA because of automated clearinghouse ("ACH") entries or because of other funds transfer entries. These credits and debits may be subject to additional rules of the funds transfer system that processes such entries, such as the rules of the National Automated Clearing House Association ("NACHA") and local ACH operating rules.

In the case of a credit entry to Your CRA, such credits are provisional, until the Bank or IFTC, as applicable, receives final settlement through a Federal Reserve Bank or otherwise receives payment as provided in Section 4A-403(a) of Article 4A of the Uniform Commercial Code. The Bank or IFTC, as applicable, is entitled to a refund of the credit entry, if it does not receive such final settlement or payment. In such case, the person who originally sent such credit entry also will not be considered to have paid You.

In addition, Wheat will not give You notice of the receipt of an entry by the Bank or IFTC, except when Wheat has agreed in writing to do so or when required by applicable law.

11. ERROR RESOLUTION PROCEDURES. In case of errors or questions about Your Transfers telephone Wheat at the number shown in subparagraph IV.D.3. as soon as You can, if You think Your Account Statement is wrong, or if You need more information about a Transfer listed on the Account Statement. Wheat must hear from You no later than 60 days after Wheat sent the first Account Statement on which the problem or error appeared. When You call,

a. tell Wheat Your name and Account number;

b. describe the error or Transfer You are unsure about, explain as clearly as You can why You believe it is an error or why You need more information; and

c. tell Wheat the dollar amount of the suspected error.

12. ADDITIONAL ERROR RESOLUTION PROCEDURES FOR AN INDIVIDUAL CRA. If You hold an Individual CRA and Your Transfer occurred within the United States and You tell Wheat orally, Wheat may require that You send it Your complaint or question in writing within (10) business days.

Wheat will tell You the results of its investigation within (10) business days after it hears from You and will correct any error promptly. If Wheat needs more time, however, it may take up to forty-five (45) days to investigate Your complaint or question. If Wheat decides to do this, it will recredit Your CRA within ten (10) business days for the amount You think is in error, so that You will have the use of the money during the time it takes Wheat to complete its investigation. If Wheat asks You to put Your complaint or question in writing and does not receive it within 10 business days, Wheat may not recredit Your Account.

If Wheat determines that there was no error, it will send You a written explanation within three business days after Wheat finishes its investigation. You may ask for copies of the documents that Wheat used in its investigation.

If Your Transfer occurred outside of the United States, Puerto Rico or any of their political subdivisions and You tell Wheat orally, Wheat may require that You send it Your complaint or question in writing within

(20) business days. Wheat will tell You the results of its investigation within 20 business days after Wheat hears from You and will correct any error promptly. If Wheat needs more time, however, it may take up to 90 days to investigate Your complaint or question. If Wheat decides to do this, it will recredit Your CRA within 20 business days for the amount You think has been debited in error, so that You will have the use of the money during the time it takes Wheat to complete its investigation. If Wheat asks You to put Your complaint or question in writing and does not receive it within (20) business days, Wheat may not recredit Your Account.

If Wheat determines there was no error, it will send You a written explanation within three (3) business days after Wheat finishes its investigation. You may ask for copies of the documents that Wheat used in its investigation.

13. ADDITIONAL ERROR RESOLUTION PROCEDURES FOR AN INSTITUTION CRA. If You hold an Institution CRA, You agree to examine Your Account Statements and to notify Wheat of any errors shown on the Account Statements within 30 days after mailing to You. Failure to do so shall preclude any claim against Wheat, IFTC, the Bank, or their agents, in connection with any error.

E. LIABILITY FOR FAILURE TO COMPLETE DEBIT CARD OR VISA(R) GOLD CHECK CARD TRANSACTIONS AND TRANSFERS

If Wheat, IFTC or the Bank does not complete a Debit Card transaction, VISA(R) Gold Check Card transaction or a Transfer on time or in the correct amount according to its agreement with You, Wheat, IFTC or the Bank will be liable for Your losses or damages. However, there are some exceptions. Wheat, IFTC or the Bank will not be liable for failure to complete a Card transaction or a Transfer:

- a. If the transaction exceeds the Combined Asset Value of Your CRA;
- b. If the use of the funds in Your CRA is restricted by legal process or other encumbrance;
- c. If circumstances beyond Wheat's, IFTC's or the Bank's control (such as fire or flood) prevent the transfer despite reasonable precautions which Wheat, IFTC or the Bank has taken;
- d. If Wheat, IFTC or the Bank has reason to believe that You or someone else is using Your CRA for fraudulent or illegal purposes;
- e. If You are trying to make a withdrawal and the ATM Terminal You are using does not have enough cash;
- f. If the ATM terminal was not working properly and You knew or should have known about the breakdown when You started the transaction;
- g. If Your Card has deteriorated or has been damaged so that it does not function properly;
- h. If Your Card or PIN has been reported lost or stolen; or
- i. If this Agreement is terminated for any reason.

There may also be other exceptions to Wheat's liability provided by applicable law.

F. ADJUSTMENT OF YOUR CRA

The Bank and IFTC, as applicable, will notify Wheat each business day of the daily total of Card transactions, and Transfers to be made to or from Your CRA. Wheat will add to the Combined Asset Value of Your CRA the amount of any deposits in accordance with its funds availability policy. Wheat will deduct the amount of any payments from the Combined Asset Value of Your CRA, in the following order of priority:

- a. the Free Credit Balance in Your Securities Account, if any; and then
- b. Your Fund shares, if any; and then
- c. the then available Margin Loan Value, if any.

You authorize Wheat to make this deduction, as if You had contacted Wheat directly with such request on each and every occasion.

NO PAYMENT THAT WOULD EXCEED THE COMBINED ASSET VALUE OF YOUR CRA WILL BE MADE.

G. ADDITIONAL RULES AND REGULATIONS

All Card transactions and Transfers to or from Your CRA are subject to Wheat's funds availability policy and any additional rules and regulations which Wheat or the Bank and/or IFTC may promulgate from time to time.

Except as otherwise required by law, Wheat, the Bank and IFTC have the right to amend these rules, regulations and policies at any time by mailing such amendments to You, unless the change must be made immediately to maintain or restore the security of Wheat's, the Bank's or IFTC's electronic fund transfer system or Your CRA or to be in compliance with applicable Federal or local law. If You continue to use Your Card or make any Transfers after notice of an amendment, You will be bound by the amendments and the Investors MoneyCards Account Agreement.

V. PROVISIONS SPECIFICALLY APPLICABLE TO PENSION PLANS

If this CRA is for a Pension Plan, in addition to the representations, warranties and certifications contained elsewhere in the Terms and Conditions, the trust for the Plan ("Retirement Trust") and the trustees thereof ("Plan Trustees"), jointly and severally hereby represent, warrant and agree as follows:

1. REPRESENTATIONS.

- a. Wheat is not a fiduciary or an investment manager, with respect to the Plan or any part of its assets.
- b. The Retirement Trust, the Plan Trustees and the person(s) designated in the Agreement to give investment instructions on behalf of the Plan will make their own investment decisions, and will not look to Wheat as the primary source of their investment advice.
- c. Wheat will have no obligation whatsoever to monitor the on-going performance of, or to report to the Retirement Trust with respect to any investment made by the Retirement Trust which shall rely exclusively on the persons designated on the CRA Agreement to perform such monitoring and reporting.

d. The Retirement Trust, the Plan Trustees, the person(s) designated on the CRA Agreement to give investment instructions on behalf of the Retirement Trust and any other fiduciary with respect to the Retirement Trust will not engage in, nor permit the Retirement Trust to engage in any "prohibited transaction" (as defined by applicable statute and regulations).

e. The Retirement Trust, the Plan Trustees, the person(s) designated on the CRA Agreement to give investment instructions on behalf of the Retirement Trust and any other fiduciary with respect to the Retirement Trust will maintain all required and necessary records, and agree that Wheat will have reasonable access thereto.

f. The Plan's definition of the term "fiduciary" is not so worded as to include the normal functions of a brokerage firm, either directly by naming brokerage firms as "fiduciaries," or indirectly within the scope of the definition.

NOTE: THE REPRESENTATIONS LISTED ABOVE DO NOT APPLY (OR DO NOT APPLY IN PERTINENT PART) WHERE WHEAT OTHERWISE CONFIRMS IN WRITING THAT IT OR AN AFFILIATE IS A FIDUCIARY.

2. **MANAGEMENT OF PLAN.** The Plan is relying solely upon the management of the person(s) designated in the Agreement. Notwithstanding any other provision of this Agreement, the Plan, the Retirement Trust and the Plan Trustees (if more than one, jointly and severally) hereby agree to defend, indemnify, and hold Wheat harmless from and against any and all claims made against Wheat arising from or in any way connected with Wheat's acceptance of investment directions and other instructions (including for the transfer of property outside of the Plan) from any of the person(s) designated in the Agreement, including, but not limited to, any claim that Wheat is a fiduciary with respect to the Plan (unless Wheat or one of its affiliates has confirmed in writing that it is a fiduciary), prohibited transactions (as defined above), excise taxes, penalties, damages, loss, expense and/or attorneys' fees incurred by Wheat in defense thereof.

3. **SUBSEQUENT CHANGES.** You agree to inform Wheat in writing immediately, of any amendment to either the Plan or the Retirement Trust, any change in the composition of the Plan Trustees or any other event which could alter the representations, warranties and certifications made above.

VI. PROVISIONS SPECIFICALLY APPLICABLE TO CUSTODIAN ARRANGEMENTS AND POWERS OF ATTORNEY

A. CUSTODIAN ARRANGEMENTS.

If this is a Custodian Account, You hereby represent, warrant and certify (jointly and severally if more than one signer) that You have the power and authority under applicable law and pursuant to the Custodian Account's governing document, if any, and have been duly authorized, to establish and maintain this CRA, and to select the privileges requested. You agree to immediately notify Wheat in writing at the address shown in Section IV.D.3. of any changes in such authority. You hereby release Wheat, the Fund, the Bank, IFTC, their respective directors, officers, employees and agents from any and all liability, and agree to indemnify the same from any and all losses, damages or costs (including reasonable attorneys' fees) for acting in good faith upon these representations, warranties and certifications.

B. POWERS OF ATTORNEY.

You may authorize (if there is more than one Account owner, all owners must authorize) one person to act as attorney-in-fact in connection with Your CRA. If You have authorized an attorney-in-fact to have authority over Your CRA, You and the attorney-in-fact represent, warrant and certify (jointly and severally) to Wheat that:

1. The power(s) of attorney ("POA") appointing such attorney-in-fact for all owners of Your CRA is in full force and effect;
2. The POA is a durable instrument surviving Your incapacity;
3. The attorney-in-fact signing the Agreement is the only currently appointed and duly qualified attorney-in-fact who will have control over Your CRA;
4. The attorney-in-fact has the power and capacity to execute this Agreement and perform in accordance with its provisions;
5. All transactions instructed by the attorney-in-fact will be in accordance with the provisions respecting investment or other powers provided in the POA and under applicable law;
6. The attorney-in-fact can issue orders and other instructions in Your CRA, and that the attorney-in-fact may execute any documents (including, without limitation, Checks) which Wheat may require; and,
7. You understand that a Wheat form POA to provide full trading authorization with privileges to withdraw money and/or securities can be used to authorize an attorney-in-fact to write Checks or use the Card, and that such Wheat POA does survive Your incapacity. You understand that a Wheat form POA limited to purchases and sales of securities and commodities cannot be used to authorize an attorney-in-fact to write Checks, use the Card(s) or initiate ACH transactions, and that depending on the version of that form executed such Wheat POA may not survive Your incapacity.

You agree to notify Wheat immediately of any changes in such authority. Wheat shall be entitled to rely upon the representations, warranties and certifications made above until receipt by it of written notice to the contrary signed by You and received at the address shown in subparagraph IV.D.3.

You hereby release Wheat, the Fund, the Bank, IFTC, their respective directors, officers, employees and agents from any and all liability, and agree to indemnify the same (jointly and severally) from any and all losses, damages or costs (including reasonable attorneys' fees) for acting in good faith upon these representations, warranties and certifications.

VII. FEE SCHEDULE

A schedule of the fees applicable to Your CRA is attached to the Agreement and incorporated herein by this reference. Wheat may change any of the fees from time to time with or without notice to You. You understand and agree that these fees are in addition to the Wheat fee and commission charges on securities transactions applicable to your Account. Your CRA will be automatically debited for all applicable fees and commission. You agree to immediately pay to Wheat any fee and commission charges which cannot be covered by the assets in Your CRA.

VIII. GENERAL PROVISIONS

1. JOINT AND SEVERAL OBLIGATIONS. If You are general partners, joint venturers, members of an unincorporated association, joint tenants, tenants in common or tenants by the entirety, Your liability hereunder shall be joint and several. Your liability and all other obligations and agreements hereunder shall be binding upon Your heirs, personal representatives, successors and assigns.

2. REPRESENTATIONS, WARRANTIES AND CERTIFICATIONS. You represent, warrant and certify (jointly and severally, if there is more than one signer on the CRA Agreement), as follows:

a. If You are general partners, joint venturers, members of an unincorporated association, or individuals, You represent that You have attained the age of majority under the laws of the state in which You reside, and if You are an employee of any exchange, or of any corporation which any exchange controls, or of a member of any firm registered on any exchange or of a bank, trust company, insurance company or any corporation, firm or individual engaged in the business of dealing in securities either as broker or principal, that You will abide by the rules of such exchanges and of the regulatory agencies for such business and by Wheat's policies. If You are a corporation which any exchange controls, or a firm registered on any exchange, or a bank, trust company, insurance company or a corporation, firm or partnership engaged in the business of dealing in securities, either as broker or principal, You agree to abide by the rules of such exchanges and of the regulatory agencies for such businesses and Wheat's policies. If, at any future time, You become so employed or so affiliated or so involved, You will notify Wheat promptly.

b. If You hold an Institution CRA, that the Institution is duly constituted or organized and validly existing under the laws of its domicile and that the instrument or capacity under which it exists is in full force and effect; that the individuals signing this Agreement are all of the duly appointed and qualified Fiduciaries (as that term is hereinafter defined) of the Institution; that all transactions initiated by the Fiduciaries in this CRA will be in accordance with the provisions respecting investments or other powers provided in applicable law and/or the instrument governing the fiduciary capacity; that Wheat is authorized to accept orders and other instructions relative to this CRA from the aforementioned Fiduciaries and that it may execute any documents with respect to the CRA that Wheat, the Fund, IFTC or the Bank may require; and, unless otherwise specified in a writing delivered to Wheat, that any one Fiduciary may individually provide instructions on this CRA including, without limitation, to order the transfer or delivery of funds or securities to any other person whosoever or to the Fiduciary(ies) giving such instructions or to any other Fiduciary(ies), or to any account in which they may have an interest, and the signing of Checks.

c. No one other than You or the designated owner of the CRA has or will have an interest in Your CRA (including, without limitation, the pledging of Your CRA to a third party or the use of securities therein as collateral for a loan made to you by a party other than Wheat or one of its affiliates), except as You shall advise Wheat in writing, which is subject to acceptance by Wheat, in its sole discretion.

d. That You have the power and authority under applicable law and any applicable governing documents to establish this Account and select the privileges requested, if applicable, and that the individuals shown on the CRA Agreement to sign Checks have been properly authorized to do so, and shall

remain so authorized unless and until Wheat shall receive written notice to the contrary by You. You release Wheat, the Fund, the Bank, IFTC, as applicable, and their respective agents and representatives from all liability and agree to defend and indemnify them from any and all losses, damages or costs for acting in good faith in accordance with the privileges selected herein. You certify that the authorizations granted in the CRA Agreement shall continue until Wheat receives written notice of a modification signed by all appropriate parties.

3. **FIDUCIARIES DEFINED.** For purposes of this Agreement, the terms "Fiduciary" and "Fiduciaries" shall include any guardian, trustee, executor, personal representative, administrator, general partner, officer, director or person with a similar capacity under applicable law or the Institution's governing document or capacity.

4. **RATIFICATION.** You ratify and confirm all transactions which may heretofore have been entered into for Your Securities Account or CRA by any of You.

5. **CREDIT REPORTS AND INFORMATION SHARING.** You authorize Wheat to obtain reports concerning your credit standing and business conduct at Wheat's discretion. You also authorize Wheat and any affiliate of Wheat (including, without limitation, First Union) to share such information and any other confidential information Wheat and such affiliate(s) may have about You and Your accounts.

6. **INCONSISTENT INSTRUCTIONS.** In the event that Wheat shall receive conflicting or inconsistent instructions from any of the signers of the CRA Agreement, Wheat may follow any of such instructions at its will, or it may refrain from executing any of such instructions until they have been reconciled in writing to Wheat's satisfaction, all without liability therefor to Wheat.

7. LIMITATIONS ON COMBINED ASSET VALUE.

a. **FREE CREDIT BALANCE.** Such portion of Your Securities Account's Free Credit Balance held by Wheat less than four (4) days (in the case of domestic bank checks and longer in the case of foreign banks) which was not transferred to Wheat by "wire transfer" of federal funds, or for which there is an insufficient balance may not be available as a source of payment for Checks presented for payment, Card transactions or authorized periodic debits.

b. **FUND SHARES.** Fund shares held for four (4) days or less which were not purchased by "wire transfer" of federal funds may not be available as a source of payment for Checks presented for payment, Card transactions or authorized periodic debits. Fund shares in certificated form can neither be held, nor constitute any part of Your Combined Asset Value.

c. **MARGIN LOAN VALUE.** If the Margin Loan Value of Your Securities Account is accessed, Your "overdraft" protection, if applicable, will be limited by the amount of Margin Loan Value then available.

8. **PAYMENT FROM ACCOUNT.** Payment of money may be made from time to time by delivering or sending to You a check made payable in accordance with the registration of Your Securities Account, or as otherwise directed by competent authority, e.g., a court, the Internal Revenue Service, etc.

9. LIEN AND PROVISIONS IN THE EVENT OF FAILURE TO PAY OR DELIVER. You hereby grant to Wheat and all affiliates of Wheat a lien on, and a security interest in all Assets and other property now or hereafter held, carried or maintained by Wheat and any affiliate of Wheat in its possession and control for any purpose, in or for any of the accounts in Your name (either individually or jointly with others) now or hereafter opened (including, without limitation, Your CRA), and any accounts in which You may now or hereafter have an interest (either individually or jointly with others), to secure any and all of Your indebtedness and other obligations of any kind or nature to Wheat or any affiliate of Wheat. All such securities and other property shall be held as security for the payment of any such obligations or indebtedness in any account with Wheat in which I have an interest, and Wheat may, in its discretion, at any time and without prior notice, sell and/or transfer any and all securities and other property in order to satisfy such obligations. In enforcing this lien, Wheat shall have the discretion to determine which securities and property are to be sold and/or which contracts are to be closed.

In addition to the foregoing and not in limitation thereof, whenever You do not, on or before the settlement date, pay in full for any security purchased for Your Securities Account, or deliver any security (including, without limitation, any dividends You have received directly from the issuer, but to which You are not entitled) sold for Your Securities Account, Wheat is authorized (subject to the provisions of any applicable statute, rule or regulation) as follows:

(a) to cancel orders or transfer Assets held by Wheat from or to any of such accounts whenever Wheat considers such a transfer necessary to preserve and give effect to Wheat's lien and security interest or for Wheat's protection. In enforcing Wheat's lien, Wheat shall have the discretion to determine which assets are to be sold and which contracts or orders are to be closed or canceled, all without liability therefor to Wheat;

(b) Until payment or delivery is made in full, Wheat may pledge, repledge, hypothecate or rehypothecate, without notice, any or all securities which Wheat may hold for You (either individually or jointly with others), separately or in common with other securities or commodities or any other property, for the sum then due or for a greater or lesser sum and while retaining in Wheat's possession and control for delivery a like amount of similar securities; and/or

(c) to sell any or all securities which Wheat may hold in any such account, or buy in any or all securities required to make delivery for any such account, or cancel any or all outstanding orders or commitments for any such account.

The reasonable costs and expenses of collection of such indebtedness and obligations, including attorneys' fees incurred and payable or paid by Wheat, shall be payable to Wheat by You promptly upon demand. Interest charges may apply. In the event that You are more than five (5) days, in making any payment to Wheat in accordance with the provisions of this Agreement, You agree that to the extent permitted by law, Wheat may impose, at its option, a late charge equal to 5% of the amount of such payment.

10. INCREASE IN MARGIN INTEREST RATES. To the extent permitted by law, in the event that You do not pay Wheat the debit balance (or such lesser portion thereof as might be demanded) in Your Securities Account within five (5) days of demand by Wheat, or fail to provide additional collateral satisfactory to Wheat upon demand by Wheat, the interest rate shall, at the option of Wheat, be increased to a rate equal to the sum

of the Prime Rate or the Cost of Borrowing Money (as applicable) and ten percent (10%), which rate shall continue until full payment or the furnishing of such additional collateral, as applicable.

11. **COMMUNICATIONS.** Confirmations, notices, statements of account and communications of every kind with reference to Your CRA (or any component part) may be sent or given by Wheat to You. Communications may be sent to You at the mailing address on file with Wheat, or at such other address as You may thereafter give in writing to Wheat, and all communications so sent, whether by mail, by telegraph, by express delivery service, by facsimile or otherwise, shall be deemed to be given to You personally. Except as otherwise specifically provided herein, the information set forth on all documents (including, without limitation, Your Securities Account Statement detailing securities transactions, Checkwriting, electronic funds transfers such as deposits and debits and Card transactions) sent to You by Wheat will be deemed conclusive unless objected to by You in writing within 10 days of its being provided.

12. **NOTICES TO WHEAT.** You agree to immediately notify Wheat of any changes in Your authority, including, without limitation, dissolution or other termination of the existence of an Institution holder of CRA. Wheat shall be entitled to rely upon the representations, warranties and certifications made herein until receipt by it of written notice to the contrary signed by You and received at the address shown in Section IV.D.3 herein. Except in the case of Arbitration, any notices required to be given to Wheat shall be in writing, sent by United States first class mail (postage prepaid) or by courier to the address shown in Section IV.D.3. herein. Notices shall be effective when received by Wheat at this address. **NOTICES SENT TO ANY OTHER ADDRESS MAY DELAY**

EFFECTIVE RECEIPT BY WHEAT.

13. **LIABILITY.** Wheat shall not be liable (directly or indirectly) in connection with the entering, handling, selling or purchasing of securities or orders for Your CRA except for Wheat's gross negligence or willful misconduct, nor shall Wheat be liable for any loss caused directly or indirectly by government restrictions, exchange or market rulings, suspension of trading, war, strikes, failure of the mail or other communications systems, mechanical or electronic failure or failure of third parties to follow instructions or other conditions beyond Wheat's control. Neither Wheat, the Fund, IFTC nor the Bank will be liable for any indirect or consequential losses or damages arising out of Your use of the securities or cash in Your Securities Account or Your shares in the Fund to cover authorized periodic debits, Card transactions and Checks, including, without limitation, loss of an investment position due to an erroneous or inadvertent debit, the tax consequences of the sale of securities, lost opportunity, missed dividends, etc. This provision shall survive the termination of Your CRA for any reason. You hereby release Wheat, the Fund, IFTC, the Bank, their directors, officers, employees and agents from any and all liability, and agree to defend and indemnify the same (jointly and severally) from any and all losses, damages or costs (including reasonable attorneys' fees) for acting in good faith upon the representations, warranties and certifications contained herein.

14. **COMPLIANCE WITH PROCESS.** You authorize Wheat to comply with any process, summons, subpoena, order, injunction, execution, distraint, levy, lien, or notice of any kind ("Process") received by, or served upon Wheat which, in Wheat's sole opinion, affects Your CRA and Wheat may, at its option and without liability, thereupon refuse to honor orders to pay or withdraw sums from Your CRA and may either hold the balance therein until the Process is disposed to Wheat's satisfaction, or to pay the balance over to the

source of the Process. In any event, Wheat shall have no obligation to contest the service of any such Process, or the jurisdiction of the source. You agree that Wheat may charge, and debit Your CRA a fee for processing any such Process, plus its costs in so doing (including, without limitation, attorneys' fees).

15. ARBITRATION. THE FOLLOWING INFORMATION CONCERNS ARBITRATION OF CONTROVERSIES HEREUNDER, AS PROVIDED IN THE NEXT PARAGRAPH:

- o ARBITRATION IS FINAL AND BINDING ON YOU AND WHEAT.
- o YOU AND WHEAT ARE WAIVING THE RIGHT TO SEEK REMEDIES IN COURT, INCLUDING THE RIGHT TO JURY TRIAL.
- o PRE-ARBITRATION DISCOVERY IS GENERALLY MORE LIMITED THAN AND DIFFERENT FROM COURT PROCEEDINGS.
- o THE ARBITRATORS' AWARD IS NOT REQUIRED TO INCLUDE FACTUAL FINDINGS OR LEGAL REASONING AND ANY PARTY'S RIGHT TO APPEAL OR TO SEEK MODIFICATION OF RULINGS BY THE ARBITRATORS IS STRICTLY LIMITED.
- o THE PANEL OF ARBITRATORS WILL TYPICALLY INCLUDE A MINORITY OF ARBITRATORS WHO WERE OR ARE AFFILIATED WITH THE SECURITIES INDUSTRY.
- o NO PERSON SHALL BRING A PUTATIVE OR CERTIFIED CLASS ACTION TO ARBITRATION OR SEEK TO ENFORCE ANY PRE-DISPUTE ARBITRATION AGREEMENT AGAINST ANY PERSON WHO HAS INITIATED IN COURT A PUTATIVE CLASS ACTION; OR WHO IS A MEMBER OF A PUTATIVE CLASS WHO HAS NOT OPTED OUT OF THE CLASS WITH RESPECT TO ANY CLAIMS ENCOMPASSED BY THE PUTATIVE CLASS ACTION UNTIL:

- (I) THE CLASS CERTIFICATION IS DENIED; OR
- (II) THE CLASS IS DECERTIFIED; OR
- (III) THE PERSON IS EXCLUDED FROM THE CLASS BY THE COURT.

SUCH FORBEARANCE TO ENFORCE AN AGREEMENT TO ARBITRATE SHALL NOT CONSTITUTE A WAIVER OF ANY RIGHTS UNDER THIS AGREEMENT EXCEPT TO THE EXTENT STATED HEREIN.

YOU AGREE, AND BY CARRYING AN ACCOUNT FOR YOU, WHEAT AGREES THAT ALL CONTROVERSIES WHICH MAY ARISE BETWEEN US CONCERNING ANY TRANSACTION OR THE CONSTRUCTION, PERFORMANCE, OR BREACH OF THIS OR ANY OTHER AGREEMENT BETWEEN US, WHETHER ENTERED INTO PRIOR, ON OR SUBSEQUENT TO THE DATE HEREOF, SHALL BE DETERMINED BY ARBITRATION. ANY ARBITRATION UNDER THIS AGREEMENT SHALL BE DETERMINED AS YOU MAY ELECT ONLY BEFORE THE NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC. (THE "NASD"), THE NEW YORK STOCK EXCHANGE, INC. OR ANY OTHER NATIONAL SECURITIES EXCHANGE FORUM OF WHICH WHEAT IS A MEMBER AND ON WHICH A TRANSACTION GIVING RISE TO THE CLAIM TOOK PLACE, IN ACCORDANCE WITH THE ARBITRATION RULES OR THE CODE OF ARBITRATION PROCEDURES APPLICABLE TO ARBITRATION PROCEEDINGS HELD BEFORE THE NASD OR SAID EXCHANGE. SUCH ELECTION IS

TO BE BY REGISTERED MAIL, ADDRESSED TO WHEAT FIRST SECURITIES, INC., OPERATIONS CENTER, 10700 WHEAT FIRST DRIVE, GLEN ALLEN, VIRGINIA 23060, ATTENTION: COMPLIANCE DEPARTMENT. THE NOTICE OF ELECTION IS TO BE POSTMARKED NOT LATER THAN FIVE DAYS AFTER THE DATE OF WHEAT'S DEMAND TO MAKE SUCH ELECTION. AT THE EXPIRATION OF THE FIVE DAYS, WHEAT IS AUTHORIZED TO MAKE SUCH ELECTION ON YOUR BEHALF. ANY JUDICIAL PROCEEDING RELATING TO THE ARBITRATION OR TO THIS AGREEMENT SHALL BE CONDUCTED IN A STATE OR FEDERAL COURT IN RICHMOND, VIRGINIA AND YOU AGREE (A) TO SUBMIT TO THE JURISDICTION OF SUCH COURTS (B) THAT SUCH COURTS CONSTITUTE A CONVENIENT FORUM AND (C) THAT PROCESS MAY BE SERVED BY CERTIFIED MAIL RETURN RECEIPT REQUESTED AT YOUR LAST ADDRESS KNOWN TO WHEAT.

16. DEATH.

a. INDIVIDUAL CRA.

You will give Wheat immediate notice in writing of the death of any one of You. If You have not chosen the TOD registration option, the estate of any of You who shall have died shall be liable, and the survivor or survivors shall continue to be liable, jointly and severally, for any existing debit balance or loss in Your CRA, or which Wheat may later sustain, by reason of the completion of transactions initiated prior to the receipt by it of written notice of death of any one of You, or incurred in the liquidation of the Account. If You have chosen the TOD registration option, then that named beneficiary shall become owner of Your CRA subject to any existing debit balance or loss in Your CRA.

b. INSTITUTION CRA.

You will give Wheat immediate notice in writing of the death of any one of You who is a joint tenant, general partner, joint venturer or member of an unincorporated association. The estate of any of such individuals who shall have died shall be liable, and the survivor or survivors shall continue to be liable, jointly and severally, for any existing debit balance or loss in Your CRA, or which Wheat may later sustain, by reason of the completion of transactions initiated prior to the receipt by it of written notice of death of any one of such individuals, or incurred in the liquidation of the Account. Institutions shall also give Wheat immediate notice in writing of the death of any individual authorized to control or manage its CRA, or to sign Checks.

17. TERMINATION. This Agreement shall remain in effect until an authorized officer of Wheat shall acknowledge in writing the receipt of a written notice from You that You wish to terminate Your CRA, after which time You will not be bound for any further transactions made for the Account. However, You shall remain liable for all prior transactions and for all future deliveries to Wheat of any assets in the CRA, and bound by all communications regarding Your CRA. You will remain liable for any charges arising in Your CRA whether arising before or after termination, and for any indemnities contained in this Agreement given to Wheat, the Fund, IFTC, the Bank and their respective directors, officers, employees and agents. In addition, You will remain bound by the Arbitration provisions of this Agreement found in Section VII.13.

Wheat reserves the right to terminate Your CRA at any time by notice to You. If Your CRA terminates for any reason, You agree that You will promptly return all unused Checks and all Cards issued to You.

18. **AMENDMENT.** Except as herein otherwise expressly provided, no provision of this Agreement shall in any respect be waived, altered, modified or amended by You unless such waiver, alteration, modification or amendment be committed to writing and signed by an authorized officer of Wheat. Wheat can change the terms of this Agreement at any time. The new terms will apply to this Agreement, including, without limitation, to both new loans and to the outstanding debit balance of Your Securities Account unless Wheat tells You otherwise. In the event of any change in the method of computing the margin interest rate (which results in a higher interest charge), Wheat will let You know about such change at least thirty (30) days before the start of the billing period when the changes take place. In the event You do not agree with any of these changes made to this Agreement by Wheat, You may close Your Account and pay the balance in full within thirty (30) days of receipt of notice of any change. Your failure to close Your Account and pay off the debit balance in full by such date shall be deemed acceptance of any amendments to this Agreement.

19. **SEVERABILITY.** If any provision or condition of this Agreement shall be held to be invalid or unenforceable by any court, regulatory or self-regulatory agency or body, such invalidity or unenforceability shall attach only to such provision or condition. The validity of the remaining provisions and conditions shall not be affected thereby and they shall be valid and enforceable as if any such invalid or unenforceable provision or condition were not contained herein.

20. **SUCCESSORS AND ASSIGNS.** This Agreement shall inure to the benefit of Wheat's successors and assigns.

21. **DEFINITIONS; CALCULATIONS.** Unless otherwise specifically defined or specified herein, all terms shall be given the uniform and general meanings then given to such terms by Wheat, and any and all calculations required to be made shall be made by Wheat utilizing its then uniform and general procedures.

22. **CORPORATE STRUCTURE/CONFLICTS OF INTEREST.** Wheat is not a bank and is a separate and distinct corporate entity from its affiliated banks within First Union. Unless otherwise described in any disclosure documents or the confirmation, the obligations and commitments of Wheat are not those of any affiliated bank and such bank is not responsible for securities purchased or sold by or through Wheat.

As a general matter, Wheat or an affiliate may be a principal, may provide investment advice or may be engaged in underwriting, with respect to, or may purchase from or sell to an affiliate, those securities for which Wheat is providing brokerage/advisory or other services to its customers. In addition, Wheat or an affiliate may act as an investment advisor to issuers whose securities may be sold to customers. The timing and the nature of any action recommended by Wheat may be different from the nature of any action taken or recommended by affiliates of Wheat and Wheat is under no obligation to recommend or take any action recommended by an affiliate of Wheat, including any purchase or sale of securities or other property undertaken by any affiliate or any recommendation to customers of any such affiliate.

In particular, Wheat, its affiliates and its and their personnel may own, buy or sell for their accounts, or for client accounts for which they exercise investment discretion (including but not limited to the Compass Advisory Program or the Mentor Strategy Portfolio), any or all securities which are the subject of

brokerage recommendations by Wheat's Investment Strategy Department ("Investment Strategy"). Purchases and sales for these accounts may not always be consistent with current Investment Strategy brokerage recommendations. Prior to conveying "buy" or "sell" Investment Strategy brokerage recommendations to Wheat clients at large, Wheat will have acted upon the same advice for such accounts. The prices of these securities may be affected favorably or unfavorably by such trades, or the subsequent issuance of the brokerage recommendations. You should consult Your own investment professional as to Your individual investment program.

In addition, from time to time, a bank affiliate of Wheat may lend money to an issuer of securities underwritten or privately placed or otherwise sold by Wheat or its affiliates. The prospectus or other offering documents provided in connection with these transactions will disclose, to the extent required by applicable securities law, the existence of any material lending relationship by any affiliate of Wheat with such issuer and whether the proceeds of an issuance of securities will be used by the issuer to repay any outstanding indebtedness to any Wheat affiliate.

23. BANKING LAW DISCLAIMER. The Checkwriting privilege afforded You by this Agreement is intended to provide You with easy access to the Combined Asset Value of Your CRA, but You should be aware that the CRA is not a bank account, that the CRA is not insured by the Federal Deposit Insurance Corporation and that Wheat is not a bank. Any determination by any federal or state regulatory authority that certain features of the CRA constitute unauthorized banking by Wheat may result in the termination of Your CRA by Wheat.

24. SIPC. Your Securities Account is protected by SIPC in accordance with the terms of the Securities Investor Protection Act of 1970, as amended.

25. RULES AND REGULATIONS; GOVERNING LAW. All transactions in Your CRA are subject to applicable laws and to the constitution, rules, regulations, customs and usages of the exchange or market and its clearinghouses where such transactions are executed by Wheat and its agents. Transactions shall also be subject to the provisions of federal and state securities laws, as amended, and to the rules and regulations of the United States Securities and Exchange Commission and the Board of Governors of the Federal Reserve System. Wheat shall not be liable for any loss caused directly or indirectly by its compliance with such rules or regulations or government restrictions or exchange or market rulings. You also understand that Wheat may establish general rules and regulations governing the operation of Your Securities Account, the CRA and the Service (including, without limitation, establishment of the minimum level cash balances to be transferred from Your Securities Account to purchase Fund shares). You agree that the operation of Your Securities Account, Your CRA and the Service also shall be governed by Wheat's general rules and regulations, as now in effect or as amended from time to time. This Agreement and the transactions contemplated hereby shall be construed and governed by the laws of the Commonwealth of Virginia (regardless of the choice of laws rules thereof).

***CAPITAL RESOURCE ACCOUNTSM**

*Capital Resource Accountsm is a servicemark of Wheat First Securities, Inc.

*PLUS SYSTEM is a registered servicemark of Plus System, Inc.

*BankMate(R) is a registered servicemark of Monetary Transfer System, Inc.

*VISA(R) is a registered wordmark of VISA(R) International and is licensed through VISA(R) U.S.A., Inc.

*Investors MoneyCardsm is a registered servicemark of Investors Fiduciary Trust Company.

**WHEAT, FIRST SECURITIES, INC.
CAPITAL RESOURCE ACCOUNTSM**

FEE SCHEDULE

1. CRA BASIC AND CRA STANDARD CHECKING PACKAGES

Set-up Fee:	None
Annual Account Fees:	None \
Fee for Each Item Deposited to Your CRA	
Returned to Wheat for Any Reason:	\$25.00 per item
Stop Payment Order Charges:	\$25.00 per stop payment order (for Checks or ACH Transactions)
Standard Package Check Charges:	
Initial order:	
Checkbook cover, Register, 40 Checks, 6 Remittance Slips	Free of charge
Check reorder:	
40 Checks, 6 Remittance Slips	\$6.50
Remittance Slips:	
25 Remittance Slips padded	Free of Charge
Corporate Checks	
3-to-a-page Corporate-Style Checks and Remittance Slips with voucher stubs and Checkbook cover. (300 Checks and 30 Remittance Slips)	\$58.00
Corporate Check Reorder:	
3-to-a-page Corporate-Style Checks and Remittance Slips with voucher stubs	\$43.50
Fee for Each ATM or Point-of-Sale Transaction ⁹	Free of Charge
Fee for Each Check Returned for Insufficient Combined Asset Value:	\$25.00

⁹If You initiate an ATM transaction at a financial institution other than the Bank, You may be charged an access fee (which may vary in amount) and which should be disclosed to You in advance of the transaction.

2. CRA GOLD PACKAGE

Set-up Fee:		None
Annual Account Fees:	\$65.00	
Check Charges:		
Initial order:		Free of charge
Checkbook cover, Register, 200 Checks, 40 Remittance Slips		
Check reorder:	\$10.00	
200 Checks, 40 Remittance Slips		
Remittance Slips:		Free of Charge
25 Remittance Slips padded		
Corporate Checks	\$58.00	
3-to-a-page Corporate-Style Checks and Remittance Slips with voucher stubs and Checkbook cover. (300 Checks and 30 Remittance Slips)		
Check Reorder:	\$43.50	
3-to-a-page Corporate-Style Checks and Remittance Slips with voucher stubs		
Fee for Each ATM Transaction ¹⁰		Free of Charge
Fee for Cash Advance		1% of advance (minimum \$2 and maximum \$10)
Fee for Each Item Deposited to Your CRA Returned to Wheat for Any Reason:	\$25.00 per item	
Fee for Each Check Returned for Insufficient Combined Asset Value:	\$25.00	
Stop Payment Order:	\$12.00 per stop payment order (for Checks or ACH Transactions)	
Additional VISA(R) Gold Check Cards	\$10.00 each card (charged on issue/reissue date)	
Replacement VISA(R) Gold Check Card	\$20.00 each card	

¹⁰If You initiate an ATM transaction at a financial institution other than the Bank, You may be charged an access fee (which may vary in amount) and which should be disclosed to You in advance of the transaction.

3. FEES APPLICABLE TO ALL ACCOUNTS

HANDLING FEE. A \$6.00 handling fee is included in the commission charged for agency transactions. The fee does not apply to transactions in new issues, mutual funds, insurance products and unit investment trusts. Delivery versus payment (DVP or RVP) accounts and fee-based accounts are not subject to this handling fee.

TRANSFER FEE. There is a \$50.00 charge to process the transfer of an account to another financial institution.

MUTUAL FUND LIQUIDATION. There is a \$10.00 charge for each liquidation of a mutual fund position.

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WHEAT FIRST UNION(R)

Wheat First Union is a division and service mark of Wheat First Securities, Inc.

The name "First Union" and design are registered service marks of First Union Corporation.

Wheat First Securities, Inc. is a wholly-owned, non-bank subsidiary of First Union Corporation, and a

Member of The New York Stock Exchange and SIPC.

(c)1998 Wheat First Securities, Inc.

INVESTMENT OBTAINED THROUGH WHEAT ARE NOT FDIC INSURED, UNLESS OTHERWISE STATED, ARE NOT DEPOSITS OR OTHER OBLIGATIONS OF WHEAT OR ANY BANK, ARE NOT GUARANTEED BY WHEAT OR ANY BANK, AND ARE SUBJECT TO INVESTMENT RISKS, INCLUDING THE POSSIBLE LOSS OF THE PRINCIPAL AMOUNT INVESTED.

DORRAINE F LESTER
262 ARBOR OAKS CIRCLE
IRMO SC 29063-9578

Signature Page

Sub Firm #	1	BR Code	PCSC	FA Code	JPC3	Account Number	5766
Account Type A-Individual							

BY SIGNING THIS PAGE, I/WE ("I") ACKNOWLEDGE THAT I HAVE RECEIVED AND REVIEWED A COPY OF MY/OUR INVESTMENT PROFILE(S) INCLUDED IN THIS PACKAGE AND, IN THE CASE OF AN ADVISORY PROGRAM ACCOUNT, THE DISCLOSURE DOCUMENT(S) RELATING TO MY PARTICULAR ADVISORY PROGRAM ACCOUNT, AND I HAVE READ AND AGREE TO BE BOUND BY THE AGREEMENTS AND/OR DOCUMENTS LISTED BELOW AND ANY OTHER AGREEMENTS AND DOCUMENTS THAT ARE INCORPORATED BY REFERENCE INTO SUCH AGREEMENTS AND/OR DOCUMENTS.

040 - Client Agreement, WFA
020 - Account Application - NA1

I understand and acknowledge that investments and insurance products in my brokerage account:

- are NOT insured by the FDIC or any other federal government agency
- are NOT obligations or deposits of or guaranteed by any Wells Fargo Bank or by any Bank affiliate
- involve investment risk, including possible loss of principal

I agree to promptly review and immediately advise Wells Fargo Advisors if any of the Owners and/or Account Profile Information is not accurate or becomes inaccurate. I understand that Wells Fargo Advisors will rely on this information and that it is my responsibility to provide accurate and timely updates. My failure to do so may affect recommendations that are given to me related to investments in my Account. If I decide to close or make changes to my Account, I will provide notification to Wells Fargo Advisors.

TRANSACTION CONFIRMATION WAIVER - DISCRETIONARY ADVISORY PROGRAM ACCOUNTS

By initiating here, I waive receipt of trade-by-trade confirmations and understand that waiving this right is not a condition of participating in the Program and will not result in a different fee. I may rescind my waiver at any time and may request, for no additional cost, confirmations for any transactions effected for up to one year preceding my last statement. In the case of Variable Annuities, we will send you transaction confirmations for your Account. See Client Agreement, Confirmations and Reports.

BY SIGNING THIS SIGNATURE PAGE, I/WE AUTHORIZE, ACKNOWLEDGE AND AGREE TO THE TERMS AND CONDITIONS OF THE CLIENT AGREEMENT AND TO THE FOLLOWING:

- **Margin:** If this is a Margin Account, my securities may be loaned to First Clearing, LLC or loaned to others.
- **Communications Consent:** My Financial Advisor may contact me/us as described in the Communications, Recording and Monitoring, Statements and Confirmations section of the Client Agreement.
- **Command Asset Program Account Holders:** In connection with the Command Asset Program, Wells Fargo Bank, N.A. may establish a Bank Account in my/our name(s) and provide the banking-related services under the terms set forth in the Command Agreement and may make any inquiry it considers appropriate, including credit or other reports, to determine if the Bank Account should be opened. I/We also agree to the terms of the dispute resolution program described in the Command Agreement relating to disputes specifically involving the Bank Account.
- **Joint Account Holders with Rights of Survivorship in Alabama, North Carolina, Tennessee, Texas, and Virginia Only:** The persons signing below agree with each other and Wells Fargo Advisors that this account is a joint account with right of survivorship and that on the death of one party to a joint account all sums in the account on the date of death vest in and belong to the surviving party as his or her separate property and estate. Each person signing below who is married to a person who is not also signing below represents and warrants that no assets now or hereafter deposited to the account, nor any interest earned on such assets, are subject to the management, control or disposition (jointly or otherwise) of such person's spouse.

W-9: Payer's Request for Taxpayer Identification Number

Requester: First Clearing, LLC
One North Jefferson, St. Louis, MO 63103

Is this your correct Social Security/Tax ID?

If not, please enter the correct number in the appropriate boxes.

☒ Social Security
☐ Tax ID
or
Corrected
Social Security/
Tax ID (Please omit dashes)

Under penalties of perjury, I certify that:

1) The number shown on this form is my correct Taxpayer Identification Number (or I am waiting for a number to be issued to me); and 2) I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and 3) I am a U.S. citizen or other U.S. person; and 4) The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct. (NOTE: The FATCA code is not applicable for accounts maintained in the United States.)

☐ Check here if you have been notified by the IRS that you are currently subject to backup withholding because of underreporting interest or dividends on your tax return.

THE INTERNAL REVENUE SERVICE DOES NOT REQUIRE YOUR CONSENT TO ANY PROVISION OF THIS DOCUMENT OTHER THAN THE CERTIFICATIONS REQUIRED TO AVOID BACKUP WITHHOLDING.

THIS CLIENT AGREEMENT CONTAINS A PRE-DISPUTE ARBITRATION CLAUSE LOCATED ON PAGE 2 IN SECTION I, PARAGRAPH 5. BY EXECUTING THIS DOCUMENT CLIENT IS AGREEING TO BE BOUND BY THE PRE-DISPUTE ARBITRATION CLAUSE. THE UNDERSIGNED HEREBY ACKNOWLEDGES RECEIPT OF A COPY OF THE CLIENT AGREEMENT.

MUST SIGN AND DATE

I agree to the terms and conditions of this agreement and attest that the certification made on the W-9 above is true.

Signature of DORRAINE F LESTER <i>(Primary Owner) Use BLACK ink only.</i>	Title if Applicable	Date (Required) 7-17-15
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I agree to the terms and conditions of this agreement.

Signature of X	Title if Applicable	Date (Required)
Signature of X	Title if Applicable	Date (Required)
Signature of X	Title if Applicable	Date (Required)
Signature of X	Title if Applicable	Date (Required)

Client Agreement

I. GENERAL ACCOUNT TERMS AND CONDITIONS

1. INTRODUCTION

The terms and conditions of this Client Agreement ("Agreement") will control the brokerage account and your Advisory Program Account you are opening with Wells Fargo Advisors, LLC ("WFA") or Wells Fargo Advisors Financial Network, LLC ("WFAFN") and any other brokerage account you open with us in the future. For purposes of this Agreement, WFA and WFAFN will be referred to as "Wells Fargo Advisors" or "WFA". Each brokerage account you open is a margin brokerage securities account, unless otherwise prohibited by applicable law or the terms of a particular program or type of account, or unless you have requested the opening of only a cash account.

WFA will act as your introducing broker and First Clearing, LLC ("FCC") will act as the broker that will carry the Account and extend credit on any margin purchases. References to WFA shall be deemed to include FCC and other agents with respect to services provided by such agents. If you have an Advisory Program Account or open a new Advisory Program Account in the future, WFA also will act as your investment adviser.

In consideration of WFA and FCC accepting and FCC carrying your Account, you agree to the terms and conditions of this Agreement. This Agreement includes the Signature Page(s), these terms and conditions and applicable disclosure documents related to your Account ("Account Disclosures"), together with any additions, amendments, or supplements to such documents. There may be additional terms, account disclosures or agreements, such as the Wells Fargo Online Access Agreement, which may be applicable to a particular feature, program, account or service related to your Account.

By signing the Signature Page(s), you agree to this Agreement and any additional terms, agreements or Account Disclosures we may provide you, which are incorporated into this Agreement by reference. If you open an Advisory Program Account after you execute this Agreement, you may be required to execute additional agreements specific to those Advisory Program Accounts.

DEFINITIONS

"You," "Yours," "the Undersigned," and the **"Account Holder"** refer to the person(s) who sign the Signature Page(s) and enter into this Agreement with WFA.

"We," "Our," "Ours," and **"Us"** refer to WFA or FCC, together with their affiliates. **"Affiliate(s)"** means any entity that is controlled by, controls or is under common control with WFA. Each Affiliate is a separate legal entity.

"Agreement" refers to this Client Agreement entered into between you and us regarding your Account together with any supplemental Advisory Program Account agreements.

"Account" means collectively or

individually any brokerage account and/or any Advisory Program Account you have with us, including any and all funds, money, Securities and/or Other Property that you have with WFA pursuant to this Agreement at any time.

"Securities and/or Other Property" means, but is not limited to, money, securities, financial instruments and commodities of every kind and nature and related contracts and options, distributions, proceeds, products, and accessions of all property.

"Advisory Program" means any investment advisory program currently offered by WFA and any investment advisory program WFA may create or offer in the future, in each case that is governed by the Advisers Act. **"Advisory Program Account"** means an Account that is governed by this Agreement.

"Disclosure Documents" means the Form ADV, Part 2 associated with each of the Advisory Programs offered.

"Discretionary" means you have authorized us or a third party to act on your behalf with respect to your Account.

"Manager" means any affiliated or unaffiliated investment adviser, including Wells Fargo Bank, N.A., who provides day-to-day investment management of the Account(s).

"Account Application" means the information about you and your investment objectives, risk tolerance and financial information relevant to a particular Account.

"Program Features" means the Program Features and Fee Schedule, which includes additional terms and conditions and the fee schedule applicable to each Advisory Program.

"Business Day" means Monday through Friday, excluding New York Stock Exchange holidays. **"Bank Business Day"** means Monday through Friday, excluding Federal holidays.

2. OWNERSHIP, AUTHORITY, & AGENCY

By signing this Agreement, you certify that information you have provided to us is accurate and complete. You also certify that (a) you are of legal age to enter into contracts in the state where you live; (b) no one has any interest in the Account unless such interest is shown in the title of the Account; (c) you are not employed by a broker-dealer or other employer whose consent is required to open and maintain this Account by regulation or otherwise, unless such consent has been provided to us; (d) you are not a director, 10% beneficial owner, policy making officer, or otherwise an "affiliate" (as defined in Rule 144 under the Securities Act of 1933) of a publicly traded company, unless you have so indicated to us; and (e) you are not insolvent. You will immediately notify us in writing of any changes to these representations.

We and our Affiliates shall have the right at

our sole discretion to advocate judicially or administratively on your behalf where we suspect financial exploitation, dementia, or undue influence in the course of a transaction. Pending any judicial or administrative remedies, we shall have at our sole discretion the authority to pause or reject instructions for any such proposed transaction.

You appoint WFA as your agent for the purpose of carrying out your instructions, including those relating to the purchase or sale of securities. You assume all investment risk with respect to such transactions. All transactions will be executed only on your order or the order of your authorized representative(s), except as provided by this Agreement or otherwise agreed to. As your agent, we are authorized to establish relationships with clearing brokers and to appoint and use sub-agents. You authorize us and our sub-agents to, among other things, open or close brokerage accounts; establish a sweep bank deposit account for you or open bank accounts in your name for the Command Asset Program and the Command Asset Program for Business; maintain customer records; hold securities in bearer, registered, or book entry form; place and withdraw orders; and take other reasonable steps in connection with our duties. We may, at our sole discretion and without prior notice to you, refuse or restrict your orders. You understand that banks and other companies affiliated with us may be investment advisors or lenders to issuers whose securities we broker.

FCC carries your Account as clearing broker pursuant to a clearing agreement with us. We do not act as FCC's agent, and you will in no way hold us, any of our Affiliates, or any officer, director, or agent of ours liable for any trading losses or other losses you incur. Until we receive a written notice from you to the contrary, FCC may accept from us any instructions concerning your Account, without inquiry or investigation, including orders to purchase or sell Securities and/or Other Property on margin. Typically, we will send you notices concerning margin requirements and/or other matters related to your Account. However, if market conditions or time constraints require, or if FCC, at its sole discretion, determines it is appropriate, FCC may send notice directly to you with or without duplicate notice to us. For more information regarding the clearing agreement with FCC, please see the Disclosure of Clearing Agreement in the Account Disclosures.

3. INFORMATION DISCLOSURES & CREDIT INVESTIGATIONS

You acknowledge that you have received a copy of the Wells Fargo Privacy Policy ("Privacy Policy") brochure which describes Wells Fargo's general policies regarding the use and sharing of information and the personal information provided to us in connection with the opening of an Account. We may use and share information about you, and you may "opt out" of certain types of information sharing, in accordance with those policies. You authorize us to obtain consumer credit and other reports from any consumer-reporting agency to obtain information necessary to open your Account

or for any other purpose for so long as your Account is open or any amount is owed to us. Even if you opt out of information sharing with third parties for marketing purposes as described in the Privacy Policy brochure, and unless you separately object in writing, we may release your name, address, and security positions to the companies that issued such securities if requested by those companies.

We are required to make a reasonable determination and verification of your Account profile. Until such verification is complete, we may not be able to service and maintain your Account. By signing this Agreement, you consent to our obtaining background and/or credit reports necessary to comply with any federal or state statutes or industry regulations. We may request credit-reporting agencies for consumer reports of your credit history. Upon request, we will inform you whether we have obtained any credit reports and, if we have, we will inform you of the name and address of the credit-reporting agency. If you fail to fulfill the terms of your credit obligations, we may submit a negative credit report to a credit-reporting agency. Under the Fair Credit Reporting Act (the Federal law embodied in 15 U.S.C. § 1681 et seq.), you have the right to notify us if you believe we have reported inaccurate information about you or your Account to any consumer-reporting agency. Send your notice in writing to First Clearing Client Services, One North Jefferson Ave., St. Louis, MO 63103. Include your complete name, current address, Social Security number, telephone number, Account number, type of account, specific item or dispute, and the reason why you believe the information reported is in error.

You understand that if you are associated with another member or member organization, WFA may notify your employer in writing of your intention to open and/or maintain an account. We will transmit duplicate copies of confirmations and statements or other similar information with respect to the account, to your employing member as required by regulation.

4. COMMUNICATIONS, RECORDING & MONITORING, STATEMENTS & CONFIRMATIONS

We will send communications to the mailing address we have on file for you, or to another address you may give us. We may also provide certain notices and other communications to you orally. You consent to our recording your telephone calls with us and monitoring your electronic communications with us without further notice. All communications we provide to you by mail, electronically or otherwise, shall be deemed personally delivered to you, whether you actually receive the communication or not.

We will provide you with an Account statement quarterly or monthly in the months in which activity occurs in your Account. You may elect to receive the monthly/quarterly statements for all your Accounts with a common mailing address together in a single mailing.

We will not send separate confirmations for the following transactions: (i) dividends or distributions which are credited or reinvested,

or transactions effected pursuant to a dividend reinvestment plan ("DRP"), (ii) shares of money market mutual funds which are purchased or redeemed, or as part of the Cash Sweep Program, or (iii) transactions effected pursuant to a periodic plan or automatic investment or withdrawal plan. Your Account statements will reflect these transactions.

It is your responsibility to review all statements and confirmations delivered to you. Statements and confirmations shall be considered accurate unless you notify us in writing no later than ten (10) calendar days after receipt of statements or confirmations, that the information is inaccurate. Inquiries concerning the balance and positions in your Account should be directed to First Clearing Client Services, One North Jefferson Ave., St. Louis, MO 63103. All other inquiries and notices of inaccuracies concerning your Account and its activities should be directed in writing to the manager of the branch office at which your Account is maintained. Failure to notify us shall prevent you from later asserting that such transactions were unauthorized.

You agree to notify us promptly in writing of any change in your name, address, employment, or designation of Settlement Choice.

You expressly authorize your WFA designated Financial Advisor to contact you for purposes of evaluating and offering products and services that may be of interest by calling, faxing, writing, or emailing at the phone number(s), mailing address, and/or email address(es) listed in the Account Application or any additional or updated numbers, addresses, or email addresses that you may provide in the future. This authorization applies only to Wells Fargo Advisors; all other business units within Wells Fargo will remain bound to any solicitation preferences that have otherwise been requested by you with Wells Fargo. This authorization will remain in effect until it is specifically revoked by you by notifying the Financial Advisor with whom you are in contact. This authorization will not be affected by any subsequent solicitation preference requests you make of Wells Fargo generally.

5. PRE-DISPUTE ARBITRATION AGREEMENT

This Agreement contains a pre-dispute arbitration clause. By signing an arbitration agreement, the Parties agree as follows. "Party" or "Parties" means you and WFA, together with their Affiliates, collectively:

- All of the Parties to this Agreement are giving up the right to sue each other in court, including the right to a trial by jury, except as provided by the rules of the arbitration forum in which the claim is filed.
- Arbitration awards are generally final and binding; a Party's ability to reverse or modify an arbitration award is very limited. The ability of the Parties to obtain documents, witness statements and other discovery is generally more limited in arbitration than in court proceedings.
- The arbitrators do not have to explain

the reason(s) for their award unless, in an eligible case, a joint request for an explained decision has been submitted by all parties to the panel at least 20 days prior to the first scheduled hearing date.

- The panel of arbitrators typically will include a minority of arbitrators who were or are affiliated with the securities industry.
- The rules of some arbitration forums may impose time limits for bringing a claim in arbitration. In some cases, a claim that is ineligible for arbitration may be brought in court.
- The rules of the arbitration forum in which the claim is filed, and any amendments thereto, shall be incorporated into this Agreement.

No person shall bring a putative or certified class action to arbitration, nor seek to enforce any pre-dispute arbitration agreement against any person who has initiated in court a putative class action; or who is a member of a putative class who has not opted out of the class with respect to any claims encompassed by the putative class action until:

- i) the class certification is denied; or
- ii) the class is decertified; or
- iii) the client is excluded from the class by the court.

Such forbearance to enforce an agreement to arbitrate shall not constitute a waiver of any rights under this Agreement except to the extent stated herein.

With respect to controversies or disputes which may arise between you and WFA (and/or its clearing agent), (collectively "us"), under this Agreement concerning matters involving alleged violations of the Investment Advisers Act of 1940 ("Investment Advisers Act") or applicable state investment advisory laws, it is understood that the Securities and Exchange Commission and various state securities regulatory agencies believe that an agreement to submit disputes to arbitration does not constitute a waiver of any rights provided under the Investment Advisers Act or applicable state investment advisory laws, including the right to choose a forum, whether by arbitration or adjudication, in which to seek the resolution of disputes.

It is agreed that all controversies or disputes which may arise between you and WFA, including controversies or disputes with WFA's clearing agent (collectively, "us"), concerning any transaction or the construction, performance or breach of this Agreement or any other agreement between us, whether entered into prior to, on, or subsequent to the date of this Agreement, including any controversy concerning whether an issue is arbitrable, shall be determined by arbitration conducted before, and only before, an arbitration panel set up by the Financial Industry Regulatory Authority ("FINRA") in accordance with its arbitration procedures. Any of us may initiate arbitration by filing a written claim with FINRA. Any arbitration under this Agreement will be conducted pursuant to the Federal Arbitration Act and the Laws

of the State of New York. The state or federal statute of limitations, statute of repose, non claim statute or any other time bar that would be applicable to any claim filed in a court of competent jurisdiction shall be applicable to any claim filed in arbitration.

6. PURCHASES & SALES

We may execute orders to purchase or sell Securities and/or Other Property on any exchange or market we select. You are responsible for keeping yourself informed, and we are under no obligation to keep you informed of developments in the markets concerning your Account. You acknowledge that Securities and/or Other Property held in your Account may carry with them valuable rights that may expire unless you take action. You will be solely responsible for knowing the rights, terms, and deadlines for taking action with respect to Securities and/or Other Property in your Account, and for taking action to realize the value of such Securities and/or Other Property. We have no obligation to notify you of the nature of such rights and terms, or of impending deadlines, expiration or redemption dates affecting such Securities and/or Other Property.

The standard cut-off time for mutual fund orders is 4:00 p.m. Eastern time. The market may close earlier on holidays or for unforeseen circumstances. You understand that mutual fund purchase orders that we receive and that are entered into our systems before the cut-off time will be priced as of that Business Day. Orders we receive after the cut-off time will receive pricing calculated on the next Business Day.

Stop and Stop Limit Orders

WFA currently permits the entry of "stop orders" or "stop limit orders." These are orders that convert to market or limit orders, respectively, based on quotation prices meeting the trigger price in the stop or stop limit order. WFA does not currently permit the entry of "stop orders" or "stop limit orders" on bulletin board or "pink sheet" equities. WFA may change the types of orders offered to customers (including the types of orders that convert to market or limit orders based on market events) at any time.

Market Volatility, Market Orders and Limit Orders

I understand that, whether I place a market or limit order, I will receive the price at which my order is executed in the marketplace. Particularly during periods of high volume, illiquidity, fast movement, or volatility in the marketplace, the execution price received may differ from the quote provided on entry of an order, and I may receive partial executions of an order at different prices. I understand that WFA is not liable for any such price fluctuations. I also understand that price quotes generally are for only a small number of shares as specified by the marketplace, and larger orders are relatively more likely to receive executions at prices that vary from the quotes or in multiple lots at different prices. I also understand that WFA may require limit orders for certain types of orders at certain times.

Securities may open for trading at prices substantially higher or lower than the previous closing price or the anticipated price. If I place a market order (whether

during normal market hours or when the market is closed), I agree to pay or receive the prevailing market price at the time my market order is executed. I understand that the price I pay may be significantly higher or lower than anticipated at the time I placed the order. To avoid buying a security at a higher price and possibly exceeding my purchasing power, or selling it at a lower price than I desire, I understand my option to enter a limit order. I also understand that limit orders may not be executed at any particular time, or at all if there is not sufficient trading at or better than the limit price I specify. The WFA online site contains further information regarding order types and limitations, which I agree to read and understand before placing such orders. (For more information, please refer to the Investing Basics section under the Education tab.)

Bulletin Board/Pink Sheet Stocks

Bulletin board, pink sheet and other thinly-traded securities ("bulletin board stocks") present particular trading risks, in part because they are relatively less liquid and more volatile than actively traded securities listed on a major exchange. I understand that bulletin board stocks may be subject to different trading rules and systems than other securities and that I may encounter significant delays in executions, reports of executions, and updating of quotations in trading bulletin board stocks. WFA in its sole discretion may only accept limit orders on certain bulletin board stock transactions. The Market Data supplied by WFA regarding bulletin board stocks is updated from time to time, but may not be current at any given point in time.

Order Handling

Certain orders may be subject to manual review and entry as part of WFA's normal order handling process. I understand that these reviews may cause delays in the execution of my orders and may cause my orders to be executed at prices that are significantly different from the price quotes I obtained when I entered my order. WFA reserves the right in its sole discretion to decline to accept any order or to change its requirements for certain securities or classes of securities without advance notice. I authorize WFA to submit my orders jointly with other orders for other customers and I acknowledge that the average price for executions resulting from bunched orders will be assigned to my Account.

We may, at our sole discretion and without prior notice to you, prohibit or restrict your ability to trade or substitute Securities and/or Other Property in your Account. We cannot guarantee requests to cancel or modify an order. We may receive late and/or erroneous trade reports from the marketplace where your order is executed, which may result in an adjustment to your order or the information on a trade execution reported to you.

The firm discourages accounts that are solely established for the delivery and sales of over-the-counter bulletin board and pink sheet securities (non-listed equities). Accounts that are found to be used predominantly in this fashion may be subject to closure.

We shall not be liable in connection with entering, executing, handling, selling, or

purchasing securities or orders for your Account except for gross negligence or willful misconduct on our part.

If I submit a mutual fund order and the Firm can reasonably determine that I am entitled to a sales charge waiver(s) for such order, I direct WFA to amend the transaction, such as convert the share class or cancel and purchase the mutual fund in the appropriate share class to receive such sales charge waiver(s). In so doing, WFA will not be exercising any discretion in connection with the account.

7. CASH SWEEP PROGRAM & SETTLEMENT

Under the Wells Fargo Cash Sweep Program ("Sweep Program"), uninvested cash balances - for which no interest is otherwise earned or paid - in your Account are automatically swept into interest-bearing deposit accounts ("Bank Deposit Sweep") or, if available, money market mutual funds or such other sweep arrangements made available to you (collectively "Cash Sweep Vehicles"), until these balances are invested by you or otherwise needed to satisfy obligations arising in connection with your Account. Eligibility for each available Cash Sweep Vehicle is determined by account type and can be obtained by contacting your Financial Advisor. For standard brokerage accounts, the Bank Deposit Sweep serves as the Cash Sweep Vehicle for eligible clients. For ineligible accounts and clients, uninvested cash balances will be placed in an available money market mutual fund. Available money market mutual funds include those for which an affiliate of WFA provides investment management and other services. *The Cash Sweep Program is described more fully in the Cash Sweep Program Disclosure Statement, which is included with this Agreement. The Cash Sweep Program Disclosure Statement and other information about the Cash Sweep Program are also available on wellsfargoadvisors.com/cashsweep.*

DEFINITIONS

"Cash Sweep Vehicle" refers to the automatic deposit of uninvested funds in an Account into either the Bank Deposit Sweep or an available money market mutual fund or such other sweep arrangements made available to you.

The Cash Sweep Vehicle, free credit balance or linked bank deposit account are collectively referred to below as your "Settlement Choice."

The Cash Sweep Vehicle will be used in connection with settlement of transactions in your Account, unless you select (if available) not to have a Cash Sweep Vehicle and instead select free credit balance or link your Account to a bank deposit account (collectively the Cash Sweep Vehicle, free credit balance or a linked bank account are referred to herein as the "Settlement Choice") to be used in connection with settlement of transactions in your Account. WFA may, at its discretion, change or replace the available Settlement Choice. Except as provided elsewhere in this Agreement, WFA will give you advance notice of any such change in a Settlement Choice.

You authorize and direct us to invest or

deposit free credit balances, including dividends, interest, or other cash we receive for your Account, in your Settlement Choice within a reasonable time after receipt. Proceeds from the sale of securities will be invested or deposited in your Settlement Choice following settlement, provided that the securities sold have been received in good deliverable form prior to the settlement date. Unless you instruct us otherwise, we will hold non-cash proceeds in your Account. Credit balances that are needed to settle a transaction or that are collateral for your obligations, such as a cash balance resulting from a short sale, will remain in your Account and will not be deposited or invested in your Settlement Choice.

You also authorize and direct us to automatically withdraw cash, redeem money market mutual fund shares, or sell securities maintained in your Settlement Choice or your Account when needed to settle a securities transaction or for any other purpose, such as to satisfy a debit balance, serve as collateral for a margin loan, short sale or option position, or to satisfy any other obligation to us in connection with your Account. If we fail to invest or deposit free credit balances according to this Agreement, our liability will be limited to the actual amount of the dividends or interest you would have earned had the free credit balances been invested or deposited in the appropriate Settlement Choice.

You will not purchase any security unless there will be sufficient funds in your Settlement Choice or Account by settlement date to make the required cash payment, unless your Account has been approved for margin privileges. You will not enter sell orders (except orders which you designate as a "short sale") unless the security is presently in the Account and in good deliverable form or you will make good delivery of property endorsed securities by settlement date.

When placing an order to sell short, you will designate it as such and authorize us to mark such order as "short." When placing an order to "sell short against the box," you will borrow the necessary stock to make delivery on the settlement date and the stock in your Account will be unavailable so long as such a short position remains open.

DEFINITIONS

"Short Sale" or "Selling Short" means selling a security that you do not own.

"Sell Short against the Box" means you own the security sold but borrow equivalent stock with which to make delivery of the sale.

We may, at our sole discretion, accept a purchase order without sufficient funds or a sell order without the Securities and/or Other Property being in good deliverable form in your Account, with the understanding that you will promptly submit payment or the Securities and/or Other Property to us. Any order, accepted and/or executed without sufficient funds, Securities and/or Other Property in the Account will be subject, at our sole discretion and without prior notice to you, to cancellation or liquidation for purchases or buy-in for sales. We may, at our discretion and without prior demand or notice to you, refuse to execute an order; or cancel, close, or liquidate at your risk any

transaction, if settlement funds are not available or securities are not delivered. You will be responsible for all costs, commissions, and losses resulting from such actions including interest and costs of collection, and without limit, reasonable attorneys' fees. We may require an equity deposit or full payment before we accept an order. No Account may be closed before we have received all Securities and/or Other Property for which the Account is short and all your outstanding debts that you owe us for any reason.

For securities that may be called in part, First Clearing, LLC uses an impartial lottery process to determine which securities will be called. For more information about the lottery process, please visit www.wellsfargoadvisors.com under Legal Disclosures or contact your Financial Advisor to receive a written copy of the procedures.

8. SECURITY INTEREST, INDEBTEDNESS, & LIQUIDATION

Except for ERISA and IRA Accounts, the Securities and/or Other Property that we or our Affiliates currently hold, hold in the future, carry, or maintain for you shall be subject to a lien, a continuing and perfected security interest, and a right of set-off for the discharge of any and all indebtedness or any other obligation you may have to us, and are to be held by us as security for the payment of any liability or indebtedness of yours to us in any of your Accounts held by us or any of our Affiliates. WFA will maintain a right to charge your Account for commissions, account fees or other fees that are normal and customary as part of this Agreement.

In connection with enforcing our lien, perfected security interest, or right of set-off, we may, at any time and without giving you prior notice, use, transfer or liquidate any or all of your Securities and/or Other Property in any of your Accounts held by us or any of our Affiliates in order to satisfy a debt or any other obligation you may have to us in your Accounts held by us or any of our Affiliates.

Such use, liquidation, or transfer may occur without regard to whether we have made any advances in connection with such Securities and/or Other Property and without regard to the number of Accounts you may have with us. Included within our right of enforcement, we shall have the sole discretion to determine which Securities and/or Other Property are to be sold or which contracts are to be closed without regard to any tax or other consequences you may face as a result of such actions. In the event of a breach or default by you under this Agreement, we maintain all of the rights and remedies available to a secured creditor under all applicable laws, in addition to the rights and remedies provided in this Agreement. You agree to indemnify and hold us and our Affiliates harmless from and against any losses or expenses incurred in connection with such enforcement or any other remedies available to us, including reasonable costs of collection.

While we reserve the right to use, transfer, or liquidate your Securities and/or Other Property without demand or prior notice, if demand is made upon you, you agree to satisfy any indebtedness, and pay any debit balance in any Account held by us or any of our Affiliates in which you have an interest. A

finance charge (as set forth in the Credit Terms and Conditions herein) may be charged on any debit balance in your Account, together with any increases in rates caused by money market conditions, and with such other charges as we may impose to cover our extra services.

You further agree that if you: (i) default on any of your obligations under this Agreement; (ii) become bankrupt, insolvent or subject to a similar condition or subject to any bankruptcy, reorganization, insolvency or other similar proceeding; or (iii) we, at our sole discretion, deem it advisable for our protection, we may, at any time and without prior notice to you: (a) cancel, terminate, accelerate, liquidate and/or close out any or all agreements or transactions between us and you or otherwise relating to the Account and calculate damages in a manner we deem appropriate; (b) pledge, transfer, or sell any assets in the Account or any other account in which you have an interest (whether such account is held with us or our Affiliates), either individually or jointly with others; or (c) take any other action as we, at our sole discretion, deem appropriate with respect to any of the foregoing and apply the proceeds to the discharge of such obligation.

In pursuing the remedies available to us, we may, without limiting our rights under this section, offset amounts you owe us against any amounts that we owe you. You will remain liable for any deficiency. You will pay the reasonable costs and expenses of collection of any debit balance and any unpaid deficiency in any of your Accounts, including, but not limited to, attorneys' fees incurred by us.

You authorize us and we have the right, at our sole discretion, to require additional collateral at any time. If a petition in bankruptcy or appointment of a receiver is filed by or against you, or if an attachment is levied against any Account in which you have an interest, or in the event of your death, we have the right, at our sole discretion, to sell any or all assets in your Account, whether carried individually or jointly with others, to buy any and/or all assets which may be short, to cancel any open orders and to close any or all outstanding contracts, all without demand for margin or additional margin, notice of sale or purchase or other notice or advertisement. Any such sales or purchases may be made at our discretion on any exchange or other market, or at public auction or private sale, and we may be the purchaser(s) for our own account. It is understood that a prior demand, call, or prior notice of the time and place of such sale or purchase shall not be considered a waiver of our right to sell or buy without demand or notice as provided in this Agreement. After deducting all costs and expenses of the purchase, buy-in and/or sale and deliveries, including, but not limited to, commissions and transfer and stamp taxes, we shall apply the residue of the proceeds to the payment of any and all of your liabilities to us. You will remain liable for any deficiency.

No course of dealing between you and us, nor any delay on our part in exercising any of our rights or remedies shall constitute a waiver thereof, and any such right or remedy may be exercised as often as we may determine.

9. NOT FDIC INSURED/SIPC ACCOUNT INSURANCE

Securities and/or Other Property held in your Account are not deposit obligations, and are not guaranteed by any bank affiliated with WFA. Such Securities and/or Other Property (except brokered certificates of deposit and the Bank Deposit Sweep up to applicable limits) are not insured by the FDIC and are subject to investment risks, including possible loss of the principal amount invested.

WFA is a member of the Securities Investor Protection Corporation ("SIPC"). SIPC protects client accounts against the loss of their securities in the event of the member's insolvency and liquidation by replacing missing securities and cash up to a maximum of \$500,000 per client, including \$250,000 for claims for cash. SIPC does not protect you against losses from changes in the market values of your investments. For more information on SIPC coverage, please see the explanatory brochure available at www.sipc.org or contact SIPC at 202-371-8300.

Above and beyond SIPC coverage, WFA maintains additional insurance coverage through Lexington Insurance Company ("Lexington"), an AIG company. For clients who have received the full SIPC payout limit, our policy with Lexington provides additional coverage above the SIPC limits for your Account for any missing securities and cash in client brokerage accounts up to a firm aggregate limit of \$1 billion (including up to \$1.9 million for cash per client). In other words, the aggregate amount of all client losses covered under this policy are subject to a limit of \$1 billion, with each client covered up to \$1.9 million for cash. This account protection package does not cover losses resulting from declines in the market value of your investments. For more information about Lexington, please visit www.lexingtoninsurance.com.

Since monies in the Bank Deposit Sweep are held at banks, they are NOT covered by SIPC or Lexington. They are instead covered by FDIC insurance. Please see the Cash Sweep Program Disclosure Statement for further information.

10. CONTROL OR RESTRICTED SECURITIES

Prior to placing an order for securities subject to Rule 144 or 145 of the Securities Act of 1933, you must identify the status of the securities and furnish us with the necessary documents (including opinions of legal counsel, if requested) to obtain approval to transfer and register these securities. There may be delays in processing these securities, and we will not be liable for any losses caused directly or indirectly by any delays. We may decline to accept an order for these securities until the transfer and registration of such securities has been approved.

11. NO TAX OR LEGAL ADVICE

We do not provide tax or legal advice with regard to any Account. You should consult with your personal tax advisor before making tax-related investment decisions. We do not render legal advice, nor are we obligated to take any action with respect to legal proceedings, including bankruptcy, that may

arise regarding securities held or formerly held in your Account, or the issuer of those securities.

12. NON-U.S. INVESTMENTS AND EXCHANGE RATE FLUCTUATIONS

Subject to certain limitations, you can choose to make purchases or sales of non-U.S. based investments in your Account. You understand that in order to trade in non-U.S. based investments, a foreign currency transaction may be necessary to either (1) convert U.S. dollars into the foreign currency to purchase the non-U.S. investment or (2) convert the sales proceeds of the non-U.S. investment back into U.S. dollars. Moreover, you understand that non-U.S. investments may make dividend, interest payments, or other distributions in a foreign currency. Unless we specifically agree otherwise, you authorize us to make all necessary foreign currency transactions in your Account in order to facilitate trading in non-U.S. investments and to convert any foreign currency into U.S. dollars. You understand that foreign currency transactions are effected by WFA, its affiliates or unaffiliated service providers, and may include a markup or markdown, as appropriate. You understand that more favorable exchange rates may be obtained by third parties not affiliated with WFA. Any profit or loss from foreign currency exchange rate transactions may be charged or credited to your Account.

13. FEES & CHARGES

We may assess your Account with charges to cover our services, or the termination of services, including, but not limited to, an annual household fee, operational & service fees, custodial fees, and transaction fees and commissions. Agents for foreign securities may impose a fee for custodial services rendered. If this fee is imposed, it will be passed to the client. You agree to pay the fees and charges specified in the Annual and Operational Fee Schedule, which may be amended at any time without notification to you. You agree that we may debit your Account for any fees or charges that you incur, or any reasonable out-of-pocket expenses we may incur on your behalf. You agree to pay or reimburse us for all applicable state and local excise taxes. Any profit or loss from foreign currency exchange rate transactions will be charged or credited to your Account. You will reimburse us for any actual expenses we incur to execute, cancel, or amend any wire transfer payment order, or perform any related act at your request. We may charge any Account of yours for such costs and expenses without prior notice to you.

14. DIVIDEND REINVESTMENT

The Dividend Reinvestment Plan ("DRP") allows you to automatically reinvest any dividends, capital gains and return-of-capital income distributions ("Eligible Monies") paid on shares of "Eligible Securities" in additional shares of the same securities. Most domestic common stocks listed on the New York Stock Exchange, Inc. ("NYSE") and NASDAQ are "eligible" for the DRP in accordance with our applicable policies. You may select the DRP options when you open your Account. We will reinvest all Eligible Monies into whole and fractional shares rounded to three decimal places.

We can apply the DRP to all or some of the Eligible Securities in your Account. If you elect to reinvest all Eligible Monies, the DRP service will also apply to all eligible future holdings. No further action is required on your part. If you choose to reinvest only certain securities in your Account, you will need to advise your Financial Advisor whether or not to reinvest each time you buy a new Eligible Security or deposit one into your Account.

You may change your reinvestment decisions by contacting your Financial Advisor to add or delete a specific stock or change your standing account instructions. We must receive any change at least two days before the posting date of any Eligible Monies. We will not issue written confirmation of changes.

We will determine reinvestment on the basis of your Account coding one Business Day before Eligible Monies are credited to your Account. We reserve the right to suspend or delete an otherwise Eligible Security from dividend reinvestment at any time, without notice, in response to market conditions. Should you request registration of your whole shares or request their transfer to another firm, any fractional shares will be sold. Voting privileges do not exist on fractional shares.

Each type of payment (dividends, return of capital, long-term capital gain) will be considered separately in determining minimums subject to reinvestment.

While we reserve the right to use, transfer, or liquidate your Securities and/or Other Property without demand or prior notice, if demand is made upon you, you agree to satisfy any indebtedness, and pay any debit balance in any Account held by us or any of our Affiliates in which you have an interest. A finance charge (as set forth in the Credit Terms and Conditions herein) may be charged on any debit balance in your Account, together with any increases in rates caused by money market conditions, and with such other charges as we may impose to cover our extra services.

You further agree that if you: (i) default on any of your obligations under this Agreement; (ii) become bankrupt, insolvent, or subject to a similar condition or subject to any bankruptcy, reorganization, insolvency, or other similar proceeding; or (iii) we, at our sole discretion, deem it advisable for our protection, we may, at any time and without prior notice to you: (a) cancel, terminate, accelerate, liquidate and/or close out any or all agreements or transactions between us and you or otherwise relating to the Account and calculate damages in a manner we deem appropriate; (b) pledge, transfer, or sell any assets in the Account or any other account in which you have an interest (whether such account is held with us or our Affiliates), either individually or jointly with others; or (c) take any other action as we, at our sole discretion, deem appropriate with respect to any of the foregoing and apply the proceeds to the discharge of such obligation.

We reserve the right to modify the terms of the DRP, or to discontinue or suspend it (in whole or in part) whenever conditions warrant, with or without notice. If you are an "affiliate" or "insider" of any issuer, you may want to consult your personal legal advisor before participating in the DRP with respect to that issue.

15. MUTUAL FUNDS AUTOMATIC INVESTMENT & WITHDRAWAL PLANS

If you instruct us, orally or in writing, to establish an automatic investment or withdrawal plan in a mutual fund, you authorize us to purchase or redeem shares in the mutual fund in the amount and at the time period that you select. We will carry out your instructions by initiating fixed debits or credits periodically to your Settlement Choice. You understand that in order to establish an automatic investment or withdrawal plan that is linked to a bank account, you must first set up a link to that bank account. Bank links are governed by applicable Automated Clearing House rules. You also authorize us to honor all debit entries initiated by you or on your behalf from time to time through your Settlement Choice.

All such debits are subject to sufficient collected funds in the designated Account to pay the debit when presented. You agree that our treatment of each entry and our right to accept an item shall be the same as if you signed them personally. You acknowledge that you will carefully read the prospectus for the fund that you select prior to establishing an automatic investment or withdrawal plan.

You understand that if there is insufficient cash from your Settlement Choice to purchase shares for an automatic investment plan, the investment scheduled for that period may not take place. Any change in ownership or cancellation of your Account, or any transaction returned for any reason, including but not limited to insufficient funds in your Settlement Choice, may result in the cancellation of your automatic investment or withdrawal plan without prior notice to you. We reserve the right to modify or terminate your automatic investment or withdrawal plan at any time and for any reason upon notification to you at your Account address of record.

To terminate your automatic investment or withdrawal plan, you must request us to terminate such plan. Your automatic investment or withdrawal plan will remain in effect until three (3) Business Days after we receive your cancellation notice. You will remain liable for all items that have not been settled at the time of termination of any plan.

We will not be liable for any loss you incur in connection with transfers from or to your Settlement Choice unless we are grossly negligent in fulfilling our responsibilities in regards to your automatic investment or withdrawal plan. In no event will we be liable for consequential, special, or indirect damages or loss. We will undertake to make transfers according to your instructions, but we will not be responsible for damages of any nature resulting from delays, failures, omissions, or errors relating to such transfers. We may, at our discretion, require periodic oral or written reaffirmation of your instructions regarding transfers, and we may terminate this service at any time. You will indemnify us, our officers, employees, agents, successors, and assigns against any and all claims or liabilities by virtue of our acting on your automatic investments or withdrawal instructions. This indemnity is unlimited and shall be binding upon your estate, successors, and assigns. We shall have no liability for costs or damages resulting from inaccuracy of information you

provide to us, or from your failure to update any information you provide to us.

16. ACCOUNT TYPES

WFA offers many different account types, including individual and joint accounts, individual retirement and other retirement accounts, custodial, DVP, estate, trust, and partnership accounts. Account types may be subject to certain restrictions and eligibility requirements, and certain services are not available to all clients and account types. You are responsible for selecting the account type that is appropriate for your needs and circumstances.

Regardless of the governing law provisions of this Agreement concerning the contractual obligations of the parties under the Account, the legal ownership of your Account shall be governed by and interpreted under the internal laws of your state of residence.

a) Joint Accounts

If this Account is maintained in the name of two or more persons, each Account Holder agrees to be individually and jointly liable for all obligations under this Agreement.

Each Account Holder will have authority, acting individually and without notice to any other Account Holder, to give instructions, buy, sell, and otherwise deal in Securities and/or Other Property, and to deal with us with regard to the Account as fully and completely as if each Account Holder alone were interested in the Account. You authorize us to follow the instructions of any Account Holder and to deliver funds, securities, or other assets held in the Account to any Account Holder or in accordance with any Account Holder's instructions, even if such deliveries and/or payments shall be made to any of you personally, and not for the Joint Account. Unless we have stated otherwise, we will hold assets in the Account for you as joint tenants with rights of survivorship.

We are not responsible for determining the purpose or propriety of any instruction we receive from any Account Holder or for the disposition of payments or deliveries among joint Account Holders. Any notice we send to one Account Holder will be deemed to be notice to all Account Holders. You further authorize us to receive into the Account any Securities and/or Other Property delivered to us by or for any Account Holder without delineation as to actual ownership of the property.

At any time, we may, at our sole discretion, require joint or collective action by all Account Holders. You authorize us, at our sole discretion, to do any one or more of the following: (i) select which instructions to follow; (ii) suspend all activity in the Joint Account, except upon further written instructions signed by all of you or upon instructions of a court; (iii) close the Joint Account and send any and all assets by ordinary mail to the address of record; or (iv) file an interpleader action, in which event we shall be entitled to recover all costs including reasonable attorneys' fees in an amount set by the court. Filing an interpleader action, however, will not serve as a waiver of our right to arbitration. If upon the death of one or more of the Account Holders, we cannot determine to our satisfaction the proper distribution of property from a Joint Account,

we may, at our sole discretion, freeze the Account indefinitely pending a satisfactory resolution or final decision of an arbitrator or court having jurisdiction over the matter.

Laws governing joint ownership of property vary from state to state. You are responsible for verifying that the joint registration you select is valid in your state. Generally, however, for joint tenants with rights of survivorship, in the event of the death of any of the tenants, the entire interest in the joint Account shall be vested in the surviving joint tenant(s) on the same terms and conditions. For tenants in common, the interest in each tenancy shall be equal unless specified otherwise and in the event of the death of any of the tenants in common, the interest in their share of the tenancy shall vest in the decedent's legal representative. State laws regulating community property vary. If you designate your Account as a community property account, we will treat all property in the Account and any proceeds in the Account as community property. You should consult your personal legal advisor regarding the community property laws of your state of residence.

b) Custodial Accounts

If the Account is a custodial account, we will maintain an account established under the Uniform Gifts to Minors Act or Uniform Transfers to Minors Act. You represent that the assets in the Account belong to the minor and that you will only use all such assets for the benefit of the minor. We are not responsible for determining the appropriateness of any actions you take as custodian.

c) Individual Retirement Accounts & Education Savings Accounts

If this is an individual retirement account ("IRA") or education savings account ("ESA"), by signing this General Account Agreement you acknowledge that you have completed and signed an IRA or ESA enrollment form to open an IRA or ESA and you have adopted First Clearing, LLC ("FCC") to serve as Custodian.

If you wish to cancel your Account, you must do so on or before the seventh (7th) calendar day after you receive the "Custodial Agreement and Disclosure Statement" by either delivering or mailing a written notice of cancellation to: First Clearing, LLC, Attn: IRA Department, MO 3580, One North Jefferson Ave., St. Louis, MO 63103.

This Agreement, the Custodial Agreement and Disclosure Statement for your IRA or ESA include the terms and conditions of the relationship entered into by you and Wells Fargo Bank or FCC (as applicable).

Your beneficiary is the individual, estate, trust, or organization you designate when you open your IRA or ESA. You may change your beneficiary designation at any time by contacting your Financial Advisor. Each beneficiary designation you file with us will cancel all previous designations.

Your beneficiary is subject to and bound by all the terms and conditions of the Custodial Agreement and Disclosure Statement. It is very important that you review Article VIII of the IRA Custodial Agreement, or Article X of the Education Savings Custodial Agreement, because if a beneficiary does not survive you

or if there is no record of a designated beneficiary or if you divorce, the default beneficiary provisions of the Custodial Agreement and Disclosure Statement will govern. Also, if you name a trust, estate, or minor child as a beneficiary, there are additional requirements or information that will be required in accordance with the Custodial Agreement and Disclosure Statement. In addition, if you are opening an Education Savings Account, please review the Custodial Agreement and Disclosure Statement to obtain more information on the authorities, duties, and eligibility requirements of a Responsible Individual, Depositor, Designated Beneficiary, and Successor Beneficiary.

d) Trust & Other Fiduciary Accounts

If this Agreement is entered into by you as Trustee or other fiduciary, you represent that investments for the Account are within the scope of the investments authorized by such Trustee or other fiduciary's power to delegate under the governing instruments and/or laws, and that you are duly authorized to enter into this Agreement. You also undertake to advise us of any event which might affect your power or authority as Trustee or other fiduciary or the property subject to this Agreement.

e) DVP Accounts

In consideration of WFA accepting a delivery versus payment ("DVP") account for you, and agreeing to act as broker for you in the purchase and sale of securities on a delivery versus payment/receipt versus payment ("DVP/RVP") basis, you agree to the following:

- You will issue standing instructions to your agent/receiving bank(s) to receive from or deliver to us against payment, any security pursuant to the procedures established by this Agreement. Specific instructions for each transaction must be in the possession of the agent bank(s) by the close of business on the second day after the date of execution or as otherwise stated by the NYSE and the FINRA Uniform Practice Code.
- You and your agent agree to receive securities against payment in an amount equal to an execution confirmed to you, which may represent only part of a larger order executed.
- You agree to instruct your agent(s) that, except for transactions that are to be settled outside the United States, the facilities of a securities depository will be used for the confirmation, acknowledgement, and book-entry settlement of depository-eligible transactions covered by applicable marketplace rules. "Depository-eligible transactions" means transactions in securities that are eligible for deposit and book-entry transfer at a securities depository at the time of settlement of the transaction.
- We will transmit to you a confirmation of each transaction after the transaction has been effected. In addition, we may, at your request, transmit pertinent trade information in a form agreed upon on the day following execution of each DVP/RVP transaction. At your request, we will simultaneously send a duplicate information copy of each confirmation to your agent bank. It is understood, however, that sending copies of

confirmations to an agent bank constitutes an information service only, and does not relieve you of your obligations under this Agreement. You agree to instruct your agent bank to receive or deliver the securities described on the confirmation, unless a discrepancy in the payment exceeds 2% of the money required for that delivery. You agree with us to resolve any such discrepancy directly, within a reasonable time after settlement.

- You agree that you will have duly authorized all instructions you issue pursuant to this Agreement and that we shall incur no liability in acting upon such instructions given to us concerning your DVP account. You understand that WFA, in acting as broker for you, will be acting as your agent.
- You are aware that if any good delivery to the designated bank is refused, we may be compelled to cancel or liquidate the transactions pursuant to provisions of Regulation T of the Board of Governors of the Federal Reserve System.
- You shall be liable and agree to promptly pay for any loss and costs resulting from such cancellation or liquidation. You understand and agree that mutual fund and option trading is restricted in DVP accounts.

f) Abandoned/Dormant Accounts

We may impose fees on Accounts that are considered unclaimed, abandoned, or dormant as permitted by applicable state law. Accounts presumed to be abandoned or unclaimed will be escheated or delivered to the state listed as your address of record for your Account in accordance with applicable law.

g) Direct at Provider Accounts (529, 403(b), Individual 401(k) Plans); Accounts/Assets Not Held at WFA

Certain types of accounts (which are not limited to but may include 529 plans, 403(b) or individual 401(k) retirement plan accounts) are not held at WFA (referred to here as "Direct at Provider Accounts"). These Direct at Provider Accounts are typically held instead at (i) the firm that manages the 529 plan, or (ii) the mutual fund company or mutual fund company transfer agent that offers the fund or retirement plan account.

For these Direct at Provider Accounts that are not held at WFA, we may assign an internal WFA account number for our recordkeeping purposes. This account number is for our internal use and typically cannot be used for deposits or transactions. Funds given to WFA for investment in 529 plans or Direct at Provider accounts must be made payable to the Provider. We cannot accept any funds made payable to WFA in relation to 529 plans or Direct at Provider accounts. Any such funds we receive will be returned to you at your current address of record. You will be responsible for all costs and losses, if any, resulting from such actions including lost interest and costs of disbursement, which may include, without limit, reasonable attorneys' fees. No Account statements, participant recordkeeping, accounting services, discrimination testing, tax reporting, or plan document amendment services will be provided to you by WFA for Direct at Provider Accounts.

529 plans are neither insured nor guaranteed

by the Plans' issuing state, state administrator, Plan Manager, or WFA or any of its Affiliates.

We may assist you with the initial selection of a Direct at Provider Account and any initial investment selections that you make, and we may assist you with subsequent investment decisions. However, we cannot monitor any profits or losses or future investment selections because the Direct at Provider Account will not be held at WFA. You acknowledge and understand that you have an affirmative obligation to monitor your Direct at Provider Account and to determine the suitability of any future investment selections made without our assistance or knowledge.

If you change the account owner or the account address on the Direct at Provider Account that you establish with the Provider, or if the Direct at Provider Account is terminated, you must immediately notify us of the change or termination.

Further, certain types of assets such as insurance and annuity contracts and alternative investments (such as private funds, hedge funds, and fund of funds) are not held by WFA and are held directly at the insurance carrier or the issuing company. You understand these types of assets may be reflected on a WFA Account statement as a courtesy service to you even though they are not held by WFA. You understand that we are not responsible for the custody or the valuation of these assets. You also understand that any information provided to you on your Account statements is for informational purposes only and may not reflect all of your holdings/policies. For annuities and insurance, the valuation may not reflect any applicable market value adjustments or insurance/annuity surrender penalties. All insurance/annuity policies and alternative investments are carried by the issuing entity or its agent, and may differ from the registration of your WFA account.

17. ACCOUNT ACCESS & ELECTRONIC SERVICES

You can access your Account in various ways, including, but not limited to, telephoning your Financial Advisor, visiting any of our branch offices, automated telephone, or online and wireless services. In the event you experience any problems in reaching WFA through any particular method, it is your responsibility to use alternate methods to communicate with us.

You agree to use our internet and automated telephone services and any additional electronic services we offer in the future (collectively, the "Electronic Services"), in accordance with the provisions detailed in this section and in accordance with the Wells Fargo Online Access Agreement. You are responsible for the confidentiality and use of your Account number and personal identification number ("PIN") and are solely responsible for all orders entered through the Electronic Services using your Account number and PIN. You must notify us immediately through hard copy, electronic or verbal means if: (i) you place an order through the Electronic Services and you do not receive an order number, or you do not receive an accurate acknowledgement of the order or its execution; (ii) you receive

acknowledgement for an order which you did not place, or any similar conflict; or (iii) you become aware of any unauthorized use of your Account number or PIN.

We may, at our sole discretion, place trading restrictions on your Account and we reserve the right, at our sole discretion, to review and reject, cancel, or modify any order that you place through the Electronic Services for any reason and without prior notice to you, including orders for which you have received an order number. We may also reject any electronic order that we deem, at our sole discretion, to be disruptive to the securities markets, unacceptable in size, type, or credit risk, or to exceed our authorized limits. Further, market orders cannot always be cancelled because they are subject to immediate execution, and your order may be executed before a request for cancellation is received.

We and our affiliates will not be liable for any consequential, incidental, special, or indirect damage (including lost profits, trading losses and damages) that result from inconvenience, delay, or loss of use of the Electronic Services. We reserve the right to suspend or terminate access to any Electronic Service for any reason and without prior notice to you.

18. THIRD PARTY INFORMATION

By accessing third party Web sites and the information provided through links on our Electronic Services, you acknowledge and agree that the material available on these sites has been produced by independent providers that are not affiliated with us; and any opinions or recommendations expressed are solely those of the independent providers and are not the opinions or recommendations of WFA.

Information obtained by the independent providers (the "Information") is believed to be reliable. However, we do not guarantee the timeliness, sequence, accuracy, adequacy, or completeness of such Information. WFA GIVES NO EXPRESS OR IMPLIED WARRANTIES (INCLUDING, BUT NOT LIMITED TO, WARRANTIES OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE) WITH RESPECT TO THIS INFORMATION. Neither we, nor our Affiliates, nor any independent provider/transmitter of this Information shall be liable in any way and you agree to indemnify and hold all of us harmless for: (i) any inaccuracy, error, delay, interruption, or omission of any information or the delivery of Information; and (ii) any loss or damage arising from or occasioned by (a) such inaccuracy, error, delay, interruption or omission, (b) non-performance, or (c) interruption due to any negligence on our part or on the part of any providers or transmitters of Information, or to any act of God or any other cause beyond our reasonable control.

19. MARKET QUOTES

We will make reasonable efforts to have accurate real time market quotes and information available during market hours. However, you understand that we cannot and do not guarantee the accuracy or availability of such market quotes and information. Accordingly, you agree that our sole liability for claims arising out of the interruption,

accuracy or delay market quotes and information shall be to use our best efforts to resume the quote service as promptly as reasonably practicable.

20. RESEARCH

We may make available information about securities and investment strategies, including research reports, market commentaries and other information ("Research Reports") that we or our Affiliates prepare, as well as materials prepared by third parties. By accessing these Research Reports, you acknowledge and agree that these materials are not personalized or in any way tailored to reflect your personal financial circumstances or investment objectives, and the securities and other investment strategies discussed in such Research Reports may not be suitable for you as such Research Reports do not take into account the particular investment objectives, financial situation or needs of individual clients. You will not consider the availability of such Research Reports as a recommendation to you of any particular security or investment strategy. Under no circumstances should any information contained in the Research Reports be construed as an offer to sell or the solicitation of an offer to purchase any security. The Research Reports have been prepared as of the date indicated and should only be considered current as of the initial publication date. They may become unreliable for various reasons including, but not limited to, changes in market or economic conditions.

THE RESEARCH REPORTS ARE OBTAINED FROM SOURCES DEEMED TO BE RELIABLE, HOWEVER, WFA AND OUR AFFILIATES DO NOT GUARANTEE THE ACCURACY, COMPLETENESS, OR THE CORRECT SEQUENCING OF THE RESEARCH REPORTS AND EXPRESSLY DISCLAIM ALL WARRANTIES, EXPRESS AND IMPLIED, WITH REGARD TO THE RESULTS TO BE OBTAINED FROM THEIR USE, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY IMPLIED WARRANTIES ARISING FROM A COURSE OF PERFORMANCE, A COURSE OF DEALING, OR TRADE USAGE.

Neither we nor our Affiliates shall be obligated to update information or opinions regarding any company or security. The Research Reports are not intended to provide tax, legal or investment advice. We and our Affiliates shall not be liable for any consequential, incidental, special, or indirect damage (including, but not limited to, lost profits, trading losses, and damages) that may result from use of the Research Reports or for omissions or inaccuracies of the information contained in them. You are strictly prohibited from reproducing, redistributing, or retransmitting any information contained in the Research Reports. You will not contact any analyst who authors or is named on any Research Report or any representative of any third party provider.

21. ELECTRONIC FUNDS, AUTOMATED DEPOSITS, PAYMENTS & TRANSFERS

a) General

You may arrange for direct deposits to be made to, automated payments to be made from, and funds to be transferred between, your Accounts with us. We use the terms "automated credits" or "direct deposits" to indicate deposits made directly to your Account by electronic means; the terms "automated debits" or "automated payments" to indicate payments authorized in writing to be made from your Account by electronic means; and the term "telephone transfer" to indicate movement of funds between your authorized Accounts by use of a touch-tone telephone and personalized access codes.

Your acceptance of direct deposits, authorization of automated payments, or telephone transfer to or from your Account, is your agreement to the terms and conditions of this Agreement.

Any electronic fund transfer ("Transfer") that you make in connection with your Account, including, but without limitation, automatic deposits and payments, but excluding transactions with a bank card, will be governed by the following terms and conditions. These terms and conditions also serve as the disclosure required by the Electronic Fund Transfer Act and Regulation E in connection with Transfers.

b) Your Liability For Unauthorized Transfers

You could lose the entire value, including your available margin, of your Account through any unauthorized Transfer.

Therefore, you should notify us at once if you believe a Transfer has occurred in your account without your permission. Notifying us as soon as possible by telephone could minimize your possible losses. If you notify us within two (2) Business Days after you learn of the unauthorized Transfer, you can lose the lesser of \$50.00 or the amount of the unauthorized Transfers. If you do not notify us within two (2) Business Days after you learn of the unauthorized Transfer, and we can prove that we could have stopped someone from making the unauthorized Transfer if you had notified us, then you can lose the lesser of \$500.00 or the sum of (i) \$50 or the amount of the unauthorized Transfers that occur within the two (2) Business Days; and (ii) the amount of unauthorized Transfers that occur after the close of two (2) Business Days and before notice to us, provided we establish that these unauthorized Transfers would not have occurred had you notified us within that two-day period. Should your Account statement show any Transfer that you did not authorize, please notify us at once. If you do not notify us within sixty (60) days after the Account statement was mailed, you may not get back any money you lost after the sixty (60) days if we can prove that we could have stopped the unauthorized Transfer if you had notified us in time. If a good reason (such as a long trip or hospital stay) keeps you from notifying us, the time periods above may be extended. If your Account is an "Institutional Account" (which is defined in this Agreement as an account for a Corporation, Non-Profit Organization, Non-Corporate Organizations, Partnerships,

Estates, Pension and Profit Sharing Plans (not including IRAs and Employee Stock Ownership Plans), and other Trusts), you are liable for all unauthorized Transfers up to the time at which you notify us.

c) Telephone Number for Notification in the Event of Unauthorized Transfers

If you believe that an unauthorized Transfer has occurred in your Account, call your Financial Advisor immediately or notify FCC at the following telephone number: 800-359-9297 or write to us at the address listed on your Account statement.

d) Types of Electronic Funds Transfers Available

Depending on the type of Account you have, you may be able to: (i) arrange with another party, such as your employer or a government agency, to electronically Transfer deposits directly to your authorized Account on a regular basis; (ii) authorize another party, such as an insurance company or mortgage company, to have payments transferred from your Account and sent directly to them on a regular basis; or (iii) direct funds to be transferred from one of your authorized accounts to another by use of a touch-tone telephone and personalized access codes (where available). If a regular payment will vary in amount, the payee needs to tell you how much the payment will be at least ten (10) days prior to when it is due.

In addition to the types of transfers listed above, we periodically introduce new methods by which you may make funds transfers, such as by personal computer and or wireless devices. At present, there is no minimum amount required for automatic debits. The availability of automatic debits to your Account will be limited to free credit and money market balances less funds needed to pay for any open orders and any uncleared deposits. Any loan value available to you on marginable securities, if your Account is a margin account, may not be available for the purpose of making automated transfers.

e) Fees

There are currently no fees charged by us for automated transfers. However, WFA reserves the right to charge such fees upon notice to you.

f) Documentation of Transfers

If you arrange to have direct deposits made to your Account at least once every sixty (60) days from the same person or company, you can call your Financial Advisor to verify such deposits. In addition, you will receive a periodic account statement that will show all activity in your Account, including any Transfer.

g) Stop Payment Procedures & Liability

If you have instructed us to make regular payments out of your Account ("Preauthorized Transfers"), you can stop such payments by calling us at the telephone numbers shown in this section at least three (3) Business Days before the payment is scheduled to be made.

When you call, please: (i) state your name and account number; (ii) the exact name of the payee; (iii) the exact payment amount; and (iv) the scheduled transfer date. Failure to provide correct and complete information may make it impossible for us to stop

payment of the Preauthorized Transfer. You agree to indemnify and hold us harmless from and against any loss incurred by us as a result of our paying a Preauthorized Transfer, if any of the information relied upon in the stop payment order is incorrect or incomplete (or as a result of our not paying a Preauthorized Transfer for which a valid stop payment order is in effect). If you instruct us to stop a Preauthorized Transfer at least three (3) Business Days before the Transfer is scheduled, and we do not do so, we will be liable for your losses or damages.

These stop payment procedures apply to Institutional Accounts (as defined in Section 1(a) above) as well. However, in no event will we guarantee the effectuation of, or be liable for, any stop payment request from an institutional account. You agree (if an institution) to hold us harmless for the amount(s) of any stop payment order(s) entered by you or on your behalf, and for all costs and expenses (including attorneys' fees) incurred by reason of the refusal to honor said payment(s), and you further agree that if, contrary to such stop payment order(s), payment is nevertheless inadvertently made through accident or oversight, we shall not be liable. This provision shall survive the termination of your Account.

Please note that stop payment orders will not appear on your Account statement.

h) Error Resolution Procedures

In case of errors or questions about your transfers, please telephone us at the telephone numbers listed in Section 21(c) above as soon as you can if you think your Account statement is wrong, or if you need more information about a Transfer listed on the Account statement. We must hear from you no later than sixty (60) days after we send you the first statement on which the problem or error appears.

When you call, please: (i) state your name and Account number; (ii) describe the error or Transfer you are unsure about, and explain as clearly as you can why you believe it is in error or why you need more information; and (iii) state the dollar amount of the suspected error. We will tell you the results of our investigation within ten (10) Business Days (twenty (20) for transfers to or from the Account within 30 days after the first deposit to the Account) after we hear from you and correct any error(s) promptly. If we need more time, however, we may take up to forty-five (45) Business Days (ninety (90) for transfers to or from the Account within 30 days after the first deposit to the Account) to investigate your question. If we decide to do this, we will provisionally credit your Account within ten (10) Business Days (twenty (20) for transfers to or from the Account within 30 days after the first deposit to the Account) for the amount you think is in error so that you will have the use of the money during the time it takes to complete our investigation. If we ask you to put your question in writing and we do not receive it within ten (10) Business Days, we may not provisionally credit your Account. If we determine there was no error, we will send you a written explanation within three (3) business days after we complete the investigation. You may ask for copies of the documents that we used in our investigation.

For any Transfer occurring outside the United States, within ten (10) business days after we receive notice of an alleged error we will either resolve the claim or provisionally credit your Account while continuing to investigate the claim. If we need more time, however, we may take up to ninety (90) days to investigate the matter.

i) Additional provisions for Institutional Accounts

The provisions in this Section 21(i) apply only to transfers to or from Institutional Accounts. You agree that the password security described in Section 17 of this Agreement and the Wells Fargo Online Access Agreement security procedures for electronic fund transfers are commercially reasonable. For payment requests from Institutional Accounts, which are subject to Article 4A of the Uniform Commercial Code ("UCC 4A"), we are liable only for damages required to be paid under UCC 4A. In no event will we be liable for any special, indirect or consequential loss, damage, costs or expense of any nature, including, without limitation, lost profits, even if we have been informed of the possibility of such damages, except as may be required by law.

22. WIRE & AUTOMATED CLEARINGHOUSE TRANSFERS

a) Governing Rules

You may be a party to an Automated Clearing House ("ACH") entry or a wire transfer that may be credited or debited against your Account. You agree that all wire transfers you initiate will be subject to the terms and conditions of our wire transfer agreement then in effect with respect to the type of transfer initiated. With respect to ACH transactions which you have authorized, you agree to be bound by the National Automated Clearing House Association ("NACHA") operating rules and any local ACH operating rules then in effect. With respect to other electronic funds transfers, you agree to be bound by any rules then in effect governing the use of any system through which the funds may be transmitted including, but not limited to, Federal Reserve Board Regulation J with regard to Fedwire and the Clearing House Interbank Payments System ("CHIPS") operating rules with regard to CHIPS.

b) Notice

You will be notified of the receipt of any ACH entry or wire transfer in your Account statement, but next-day or other notice will not be provided. If you believe a transfer has not been properly credited to you, you agree to promptly notify your Financial Advisor immediately.

c) Final Payment

Any credit resulting from an ACH credit or other wire transfer is provisional until we receive final payment. We reserve the right to delay or prevent withdrawal of funds pending verification of final payment. If final payment is not received, or if your Account was credited by mistake, you agree that we may reverse the credit to your Account or that you will otherwise reimburse us if funds in your Account are not sufficient. In the event that the payment does not become final, the originator will not be deemed to have paid you the amount of the credit.

d) Compensation.

If you are entitled to compensation for any delay or improper completion of an ACH or wire transfer as a result of an error by us, our liability will be limited to the payment of interest for a period not exceeding the lesser of sixty (60) days or the period between the date of the error and the date of the correction. Any such compensation will be paid at our discretion by either (1) adjusting your Account balance to reflect the average balances you would have had but for the error, or (2) direct payment of cash in an amount equal to interest at the average applicable federal funds rate for that period.

e) Account Numbers

You agree that payment for ACH or wire credit transfers may be made solely by reference to the account number of the recipient. We are not obligated to determine whether a discrepancy exists between the name and the account number shown on the transfer information.

23. ADDITIONAL TERMS & CONDITIONS FOR NON-RESIDENTS OF THE UNITED STATES

a) Collection, Use, & Transfer of Personal Information

If you reside outside the United States, to the extent there is any conflict between this section and the Wells Fargo Privacy Policy, the provisions of this section shall control.

We collect personal information about you ("Personal Information") primarily to provide the requested services and to comply with legal and regulatory obligations including, but not limited to, applicable anti-money laundering requirements, customer due diligence, Office of Foreign Asset Control (OFAC) restrictions, other similar laws and regulations, and to fulfill other obligations that relate to United States and foreign laws, regulations and ordinances applicable to financial institutions. Additionally, we may use your Personal Information in order to assist us in identifying and providing financial products and services that are suitable for you.

We will endeavor not to use Personal Information for any purpose incompatible with the purposes listed above unless it is required or authorized by you, or it is in your own vital interest, or is necessary to comply with a legal or regulatory obligation. Reasonable efforts are made by us to avoid the retention of unnecessary or duplicative information. Personal Information about you will be accessible by WFA employees, contractors and agents who are located worldwide, including in countries that may not require the same level of data protection as in the country in which you reside. By providing us with your Personal Information and by executing the Agreement, you are consenting to our use of it in accordance with this Agreement and the Wells Fargo Privacy Policy, including the transfer of your Personal Information across international boundaries to jurisdictions anywhere in the world as permitted by local law.

Requests to correct or access any Personal Information must be submitted in writing to the address listed in the "Communications, Recording & Monitoring, Statements & Confirmations" section. After we have verified your identity, we will endeavor to correct or to

provide you with the Personal Information as you have requested within a reasonable time and, where permitted by law, we may charge an appropriate fee to cover the costs of responding to the request.

Where you have requested a correction or change to any of your Personal Information, we will endeavor to make your correction or change, but reserve the right to refuse a change to the extent necessary to achieve any required purposes of its use. If we refuse to provide the Personal Information held or to make the correction requested, at your request we will provide you with the reasons for declining the request.

b) Additional Client Disclosure & Understanding for Non-Residents of the United States

This section applies to non-United States residents and non-United States domiciled entities who maintain accounts with WFA. Your Account is based in the United States, and not in your country of residence. WFA accounts, products, and services may not have been registered, reviewed or approved by any governmental, banking, or securities regulator in your country of residence or domicile; and because of this, by establishing an account with WFA and purchasing financial products or services through WFA, you will not be afforded certain rights or protections that may otherwise be available to you under the securities, banking, or other financial services laws or regulations of your country of residence.

Not all of our accounts, products, services, or investments are available to residents of all countries, and WFA in its discretion may refuse to offer certain products, services, or investments to you based on your country of residence.

Many countries have various laws, rules and regulations that may apply to your opening and maintaining accounts, products, or services outside your country of residence or domicile, including certain asset transfer and transaction reporting and filing requirements and laws; rules and regulations regarding the filing of tax information and payment of taxes, and other foreign exchange or capital controls. You are responsible for knowledge of and adherence to any such laws, rules and regulations, and specifically it shall be your sole responsibility to adhere to and comply with any reporting or filing requirements in your country or domicile of residence that might apply as a result of your maintaining an Account with WFA in the United States or the transfer of any assets to or from your Account; and the proper and timely filing and payment of all taxes in your country of residence. With respect to the foregoing, by executing this Agreement and establishing your Account you are affirmatively representing that you have complied with all foreign exchange or capital control obligations that may apply to you (if any), and that where applicable you have received any authorization needed to establish your Account or for any transfer of assets to your Account. Further, at all times while you maintain an Account with WFA you represent that you will continue to comply with any and all such laws, rules, regulations, and reporting or filing requirements as required by your country of citizenship, residence, or domicile.

With respect to the preceding acknowledgements and representations, you agree that you shall indemnify and hold harmless WFA and any of our affiliates, directors, officers, representatives, employees or agents against any complaint, claim, loss, damages or other injury or expense that may arise in connection with or with respect of any claim or action that is a result of or relates to your failure to adhere to or comply with any law, regulation, or requirement of your country of citizenship, residence, or domicile as contemplated in this section of the Agreement.

For individuals, in the event that you die while residing outside of the United States, we may require the executor or representative of your estate to provide a legal opinion or to file an ancillary proceeding to confirm their appointment as the executor or representative of your estate; to ratify any order, judgment, or decree issued by a foreign court; or to otherwise resolve any dispute relating to your account. Additionally, in accordance with U.S. Internal Revenue Service guidelines, WFA may require them to obtain transfer certificates from the U.S. Internal Revenue Service before releasing any of the assets in your account to your estate. Where a legal opinion, an ancillary proceeding or transfer certificates are required by WFA, all costs associated with obtaining any or all of those, including attorneys' fees, shall be paid by your estate or your heirs, and not by WFA.

24. ADDITIONAL TERMS & CONDITIONS FOR MUNICIPAL ENTITIES AND MUNICIPAL OBLIGATED PERSONS

This section applies to accounts that are beneficially owned by a Municipal Entity or Municipal Obligated Person, as those terms are defined by Section 15B of the Securities and Exchange Act of 1934 (the "Municipal Advisor Rule"). You agree that none of the funds that are invested in or through this Account, or that are sought for investment in this Account, constitute either Proceeds of Municipal Securities or Municipal Escrow Investments (both defined below). Furthermore, you agree to notify your Financial Advisor before placing either Proceeds of Municipal Securities or Municipal Escrow Investments into the Account. Finally, the Undersigned represents that he/she is an official of the Municipal Entity or Obligated Person and is sufficiently knowledgeable as to the financial affairs of the Municipal Entity or Obligated Person to make the representations contained herein.

For the purposes of this Agreement, the term "Proceeds of Municipal Securities" means monies derived by a Municipal Entity from the primary offering of municipal securities, investment income derived from the investment or reinvestment of such monies, and any monies of a Municipal Entity or Obligated Person held in funds under legal documents for the Municipal Securities that are reasonably expected to be used as security or a source of payment for the payment of the debt service on the Municipal Securities, including reserves, sinking funds, and pledged funds created for such purpose, and the investment income derived from the investment or reinvestment of monies in such funds. The term "Municipal Escrow Investments" means proceeds of Municipal Securities and any other funds of a Municipal

Entity or obligated person that are deposited in an escrow account to pay the principal of, premium, if any, and interest on one or more issues of municipal securities.

25. EXTRAORDINARY EVENTS

We and our Affiliates shall not be liable for any loss caused directly or indirectly by acts of God, government restrictions, exchange or market rulings, suspension of trading, war, acts of terrorism, strikes or other labor problems, failure of the mails or telephones or other communication lines/systems or other interconnect problems (such as not being able to connect to your ISP), failure of electronic or mechanical equipment, or unauthorized Account access or theft, or any other conditions beyond our control.

26. ASSIGNMENT

We may assign the rights and duties under this Agreement to any of our subsidiaries or affiliates without giving you notice, or to any other entity upon written notice to you. If you have an Advisory Program Account, this Agreement shall not be assignable by either party without prior consent of the other. The parties agree that reorganization within Wells Fargo & Company does not constitute an assignment.

Any rights either we or FCC have under this Agreement may be exercised by either of us or may be assigned to the other, including, but not limited to, the right to collect any debit balance or other obligations owing in your Account and that we or FCC may collect from you or enforce any other rights under this Agreement independently or jointly.

27. WAIVER

Unless specifically permitted in this Agreement, no provision of this Agreement can be, nor be deemed to be, waived, altered, modified, or amended unless agreed to in writing signed by us.

Our failure to insist at any time upon strict compliance with any term contained in this Agreement, or any delay or failure on our part to exercise any power or right given to us in this Agreement, or a continued course of such conduct on our part, shall at no time operate as a waiver of such power or right, nor shall any single or partial exercise preclude any further exercise.

28. SEVERABILITY

If any condition or provision of this Agreement shall be held to be invalid or unenforceable by any court, or regulatory or self-regulatory agency or body, such invalidity or unenforceability shall affect only to such condition or provision. The validity of the remaining provisions and conditions shall not be affected and this Agreement shall be carried out as though such invalid or unenforceable condition or provision were not contained herein.

29. MODIFICATION OF AGREEMENT

We may unilaterally change the terms and conditions of this Agreement at any time upon providing notice to you.

30. INDEMNIFICATION

You (and each of you, if this is a joint account) will indemnify us, our employees and agents and hold us, our employees and agents harmless from any loss, damage, or liability arising out of any transaction in which we act, either directly or indirectly, or as your agent (or the agent of one of you), absent any willful or grossly negligent conduct.

31. HEADINGS

All headings in this Agreement and other Account documents are for descriptive purposes only and shall not be deemed to modify or qualify any of the rights or obligations set forth in each such document.

32. SURVIVABILITY

The provisions of this Agreement governing arbitration, choice of law, liability, indemnification, and confidentiality will survive the termination of this Agreement.

33. TERMINATION

You may close your Account at any time by providing written notice to us. This Agreement shall remain in effect with respect to the Account you are closing until we receive your written notice of termination and we acknowledge the cancellation of your Account in writing, after which time you will not be bound for additional transactions made for the Account. However, you will remain responsible for all prior transactions and for all transaction costs, including commissions and related costs. We have the right to close your Account at any time without prior notice to you.

34. GOVERNING LAW & LANGUAGE

This Agreement shall be deemed to have been made in the State of New York and shall be construed, and the rights and liabilities of the Parties determined, in accordance with the laws of the State of New York without regard to choice of law provisions.

English is the controlling language of the relationship between you and WFA. We may translate certain forms, disclosures, and advertisements into another language for your convenience. However, if there is a discrepancy between WFA's English language materials and the materials in another language, the English language version is controlling.

We may at our discretion refuse to accept any document, written instruction, or request letter in any language other than English, or may require you to provide a certified translation of such document and, in addition, may require the document and its translation to be apostilled or legalized. You shall bear all costs associated with obtaining any translation, certification, legalization, or apostille.

35. PAYMENT FOR ORDER FLOW

Securities traded in your Account may be executed in more than one marketplace. Consistent with the principles of best execution and applicable regulatory requirements, you agree that we may use our discretion selecting the routing destination.

We receive payment for order flow from some market centers where your orders may be routed. We do not accept payments from broker-dealer market makers in exchange for directed orders. However, we do accept payment for order flow in the form of rebates from national stock exchanges.

We route customer orders for over-the-counter and listed equity securities to selected market makers and exchanges for execution. We consider a number of factors when determining where to send customer orders including execution speed, price improvement opportunities, the availability of efficient and reliable order handling systems, the level of service provided, and the cost of executing orders. We regularly review transactions for quality of execution, generally by measuring execution prices versus the relevant national best bid and offer.

Typically, orders are either market orders or limit orders. A market order specifies no particular price and instructs us to execute the order immediately at the best available price. A limit order is an order to buy or sell at a specific price, or better. A limit order immediately executable (i.e., in-line with the current market price) is handled as a marketable limit order. We route most of our market and marketable limit orders in over-the-counter and listed equity securities to selected broker-dealers that act as market maker to execute our orders, and we attempt to systematically route a greater number of these orders to market centers that consistently execute orders at prices superior to the national best bid or offer, with improvement amounts greater than that available at competing venues. We do not receive payment for order flow for routing orders to these market makers.

We route limit orders in listed equity securities that are away from prevailing prices (i.e., non-marketable limit orders) to stock exchanges to be displayed in the national best bid and offer quotation. Non-marketable limit orders are generally not eligible for price improvement opportunities, and we therefore attempt to systematically route a greater number of these orders to exchanges and broker-dealers that demonstrate a higher occurrence and likelihood of executing orders prior to becoming marketable. If a limit order that has been routed directly to an exchange is subsequently executed, we receive a rebate payment from the executing stock exchange. These rebates are credited against exchange trading fees we incur. When the monthly rebate credit exceeds charges, we receive a net payment from the executing stock exchange. The payment rates we receive from national stock exchanges are standard amounts available to all participating broker-dealers and have not been specially negotiated for our firm. Gross rebate amounts are changed periodically by the exchanges, but are typically less than \$0.0034 per share.

We route customer option orders to selected broker-dealers' smart routers and option exchanges for execution. In the event we receive compensation for directing orders to specific market centers for execution, such compensation may include cash payments as well as noncash items, such as discounts, rebates, reductions, or credits against fees.

that would otherwise be payable in full. We consider a number of factors when determining where to send customer orders, including, but not limited to, price improvement opportunities, the availability of efficient and reliable order handling systems, the level of service provided, and the cost of executing orders. We regularly review transactions for quality and execution.

The source and amount of any compensation received in connection with your transactions will be disclosed upon written request. Please contact your Financial Advisor for further information.

II. CREDIT TERMS & CONDITIONS

If we extend credit to you in connection with any securities transaction, we are required to furnish you specific information describing the terms, conditions, and methods whereby interest charges are made to your Accounts.

1. CASH ACCOUNTS

Cash Accounts may be subject, at our discretion, to interest on any debit balances resulting from failure to make payment in full for securities purchased, from failure to timely deliver securities sold, from proceeds of sales paid prior to settlement date, or for other charges which may be made to your Account ("Cash Account Debit Balance"). The interest charged shall be determined by the rate applied on Cash Account Debit Balances as set forth in the Statement of Interest Charges.

2. MARGIN ACCOUNTS

Purchases of securities on credit, commonly known as margin purchases, enable you to increase the buying power of your equity and thus increase the potential for profit or loss. A portion of the purchase price is deposited when buying securities on margin, and we extend credit for the remainder. The amount borrowed will appear as a debit balance on your monthly statement. You will be charged interest on the amount borrowed at varying rates as described in the Statement of Interest Charges. We charge interest on the debit balance and require you to maintain securities, cash, or other property to secure repayment of funds advanced and interest due. You understand that we reserve the right to not extend margin privileges, even if margin privileges have previously been extended to you, for any reason without prior notice to you.

Margin trading is not for everyone. Margin clients should be certain they understand the operation of a margin account under various market conditions and should examine their investment objectives, financial resources, and risk tolerance to determine whether margin trading is appropriate. You understand that the increased leverage which margin provides may heighten both risks and rewards. By entering into this Agreement, you acknowledge receipt of the Margin Risk Disclosure Statement which contains more information about the risks associated with margin trading.

Interest will be charged for any credit extended to you for the purpose of buying, trading, or carrying any securities, for any cash withdrawals made against the collateral

of securities, or for any other extension of credit. When funds are paid in advance of settlement on the sale of securities, interest will be charged on such amount from date of payment until settlement date. In the event that any other charge is made to the account for any reason, interest may be charged on the resulting debit balances. Only certain securities, as defined by us or the Federal Reserve Board, may be purchased on margin or used as collateral in your Account. Whether a purchase may be made on margin, how much of the purchase price must be available in your Account at the time you place the order, and your margin maintenance requirements, are determined by us, the Federal Reserve Board, FINRA, or by applicable exchange rules. For our own protection, we reserve the right, at any time and without prior notice to you to impose stricter requirements than those imposed by the Federal Reserve Board, FINRA, or applicable exchange rules. You will maintain such required margin in your Account and understand that any debit balances in such Account will be charged interest. We may apply any or all payments received for your Account including interest, dividends, premiums, principal, or other payments to any debit balances in such Account.

You are required to have at least \$2,000 in equity in your Account, or such higher amount as required by us or applicable rules and regulations, before we will extend credit to you. Generally, we can lend you no more than 50% of the purchase price of the security you are buying on margin.

It is our general policy to require margin Account Holders to maintain in their accounts equity of the greater of 30% of the current market value or a minimum per share value for common stock. These minimums may fluctuate according to market conditions as well as size, volatility, and creditworthiness of specific securities held in the account. We apply other standards for other types of securities. Also, certain securities may be ineligible for margin credit from time to time. For information with respect to general margin maintenance policy for municipal bonds, corporate bonds, United States Treasury notes and bonds, and other securities, as well as information about the eligibility of particular securities for margin credit, please contact us or your Financial Advisor.

Notwithstanding any of the above general policies, and without notice to you, we reserve the right, at our discretion, to require the deposit of additional collateral and to set required margin at a higher or lower amount with respect to particular accounts, particular securities, classes of accounts, or classes of securities as we deem necessary. In making these determinations, we may take into consideration various factors including, but not limited to, the size of the account, liquidity of a position, price volatility of a security, concentration of securities in an account or firmwide, or a decline in creditworthiness. If you fail to meet a margin call, some or all of your positions may be liquidated.

You are not entitled to prior notice, by way of margin call or otherwise, before we sell (or buy in for short positions) any securities in your Account when your Account falls below our margin maintenance requirements or under any other circumstances in which we

may sell securities in your Account or cancel open orders. In addition, even if we have contacted you and provided a date by which you must deposit additional funds into your Account, we may still, at our sole discretion, sell (or buy in for short positions) any securities in your Account or cancel any open orders without additional notice. Under any circumstances in which we may sell securities in your Account, you are not entitled to choose which securities are sold.

3. INTEREST RATES

An annual rate of interest will be charged to the daily-adjusted debit balance in your Account. Your annual rate will vary depending on the size of your daily-adjusted debit balance. The daily adjusted debit balance is the net total of the settled balances in your accounts.

The annual rate of interest charged on daily adjusted debit balances is computed using a selected rate above, at, or below our base rate ("Base Rate"). The Base Rate is set at our discretion with reference to commercially recognized interest rates, industry conditions relating to the extension of margin credit and general credit market conditions.

Rates and methods of calculations may be changed from time to time in our sole discretion. The Base Rate may change without prior notice to you. If there is a change in the interest rate during any interest period, separate charges will be shown for each period under each different rate.

The current table of interest rates (as of January 17, 2011) is:

Margin Debit Balance	Rate of Interest
\$0 to \$24,999.99	Base Rate + 3.625%
\$25,000 to \$49,999.99	Base Rate + 2.500%
\$50,000 to \$99,999.99	Base Rate + 2.375%
\$100,000 to \$249,999.99	Base Rate + 0.750%
\$250,000 to \$499,999.99	Base Rate + 0.625%
\$500,000 to \$999,999.99	Base Rate + 0.500%
\$1,000,000 to \$4,999,999.99	Base Rate
\$5,000,000 to \$9,999,999.99	Base Rate - 0.500%
\$10,000,000 and above	Base Rate - 0.750%
Cash Account Debit Balance	Base Rate + 3.625%

The Base Rate may be changed at our sole discretion without prior notice. For the current Base Rate, please visit wellsfargoadvisors.com/margin.

4. DEFAULT RATE OF INTEREST

If you are in default and until such time as the

default is cured, and in substitution for any other rate of interest specified in this Agreement, interest may be charged at the rate of 24% per annum (or the maximum rate permitted by applicable law) on the debit balance of all margin accounts which you maintain with us.

5. METHOD OF INTEREST COMPUTATION

Interest is computed daily on the basis of a 360-day year using the following formula:

$$\frac{\text{Adjusted Debit Balance} \times \text{Interest Rate}}{1} \times \frac{\text{Number of Days}}{360}$$

At the close of each monthly interest period during which credit was extended to you, the interest charge is computed by multiplying the daily-adjusted debit balance by the applicable interest rate and by the number of days during which a debit balance was outstanding and then dividing by 360. Should the applicable rate change during the interest period, separate computations will be made with respect to each rate charged for the appropriate number of days during the interest period. Interest charged is calculated on a settlement date basis. A divisor of 360 days is used in determining the interest charge.

If not paid, the interest charge for credit extended to your Account at the close of the interest period is added to the opening debit balance for the next interest period. With the exception of credit balances resulting from short sales, all other credit and debit balances will be combined and interest will be charged on the resulting average daily adjusted debit balances for the interest period. If there is a debit in your cash account and you hold a margin account, interest will be calculated on the combined debit balance and charged to the margin account. Any credit balance as the result of any short positions will be disregarded because such credit collateralizes the stock borrowed for delivery against the short sale. Such credit is disregarded even if you should be long in the same position in your margin account (i.e., short against the box). If the security which you sold short (or sold against the box) appreciates in market price over the selling price, interest will be charged on the appreciation in value. If the security which you sold short depreciates in market price, the interest charged will be reduced since the average debit balance will decline. This practice is commonly known as "marking-to-the-market." Daily, a closing price is used to determine any appreciation or depreciation of the security sold short. If your Account is short shares of stock on the record date of a dividend or other distribution, however such a short position occurs, on the following Business Day your Account will be charged the amount of the dividend or other distribution.

The daily adjusted debit balance in an account may be paid in full at any time to avoid further interest charges.

6. INTEREST STATEMENTS

Within your regular monthly statement, an interest charge will show for the interest period. Your monthly statement will show each transaction on the date of trade;

however, interest as shown on the interest statement is calculated on a settlement date basis. In order to check the calculation of interest charged to your Account, it may be necessary to refer to both your prior and current months' statements.

The monthly interest statement will show: (i) the current selected rate used in the calculation and any changes in such rate during the interest period; (ii) the daily net balance of all transactions; (iii) any free credit balance in your cash account (which reduces the daily adjusted debit balance); (iv) any mark-to-the-market as a result of a short position; (v) the number of days your Account had a debit balance; (vi) the daily adjusted debit balance on which interest is charged; (vii) the amount of interest; and (viii) the total interest charge for the period.

7. COLLATERAL, LIEN & LIQUIDATION

We may require you to deposit additional collateral and/or we may liquidate positions in any Account carried by us in which you have an interest for any reason, including the following: (i) if your Account, at any time, falls below our margin maintenance requirements; (ii) if you fail to meet any call for additional collateral; (iii) if you indicate to us that you do not intend to meet a call for additional collateral; (iv) if you file a petition or a petition is filed against you; (v) if you seek or acquiesce to the appointment of a receiver; (vi) if an attachment is levied against your Account or any Accounts in which you have an interest; (vii) if you die; or (viii) any other circumstance which in our opinion warrants such action, including, but not limited to, changes in the price, trading volume, marginability, or negotiability of your Securities and/or Other Property. In any such event, we may sell any and all Securities and/or Other Property in any Account(s) carried by us in which you have an interest, whether individually or jointly with others, buy any and all Securities and/or Other Property which may be short in such Account(s), or cancel any open orders and close any or all outstanding orders or commitments. We may take any of these actions without demand (whether by margin call or otherwise) for funds or additional funds, notice of sale or purchase, or other notice or advertisement, each of which is expressly waived by you. Even if we have contacted you by way of margin call or otherwise and provided a specified date by which you must deposit additional funds into your Account, we may, at our sole discretion, sell (or buy in for short positions) any securities in your Account or cancel any open orders, without prior notice to you. When we sell securities in your Account under any circumstances, we may select the securities and that you may not choose which securities are sold. You are not entitled to an extension of time in order to meet margin requirements.

We retain a security interest in all Securities and/or Other Property held in any Account carried by us in which you have an interest so long as any credit extended remains outstanding. You will not cause or allow any of the collateral held in your Account to become subject to any liens, security interests, mortgages, or encumbrances of any nature other than our security interest.

All Securities and/or Other Property deposited for the protection of your collateral

and/or margin account may be deposited with The Depository Trust Company or any other recognized clearing corporation or depository trust company, and may be held in street name and used there by us until you demand and become entitled to delivery thereof. We shall have a reasonable time after such demand for delivery to ship securities, other property or collateral from New York or from any other place where they may be to the place where the same are to be delivered to you. We shall only be required to deliver Securities and/or Other Property of the same kind and character as originally deposited.

Any prior demand, notice, or advertisement shall not be deemed a waiver of our right to take these actions without demand, notice or advertisement. Any such sales or purchases may be made at our sole discretion on any exchange or other market where such business is usually conducted or a public auction or private sale, and we may be the purchaser or the sellers for our own account.

8. LOAN OR PLEDGE OF SECURITIES

We may borrow money to lend to margin clients, including you, and may pledge Securities and/or Other Property as collateral for such loans. You authorize us to lend either to ourselves or to others any Securities and/or Other Property, together with all attendant rights of ownership, held by us in your margin account. We may receive compensation in connection with the lending of customer securities. All of your Securities and/or Other Property may be pledged and repledged and hypothecated and rehypothecated by us from time to time without notifying you, either separately or together with other Securities and/or Other Property of other customers for any amount due to us in any Account in which you have an interest. We may do so without retaining in our possession or under our control for delivery a like amount of similar Securities and/or Other Property. In connection with such loans, and in connection with securities loans made to you to facilitate short sales, we are authorized to receive and retain certain benefits (including interest on your collateral posted for such loans), to which you will not be entitled. In certain circumstances, such loans may limit, in whole or in part, your ability to exercise voting rights of the securities lent. When your securities are lent, you may receive substitute interest, dividend, or other payments ("substitute payments"), instead of qualified dividends, exempt-interest dividends, capital gain dividends, tax-exempt interest payments, tax-deferred payments, distributions that are treated as a return of capital, or a payment where you are entitled to claim a foreign tax credit. Because substitute payments do not maintain their characterization as qualified dividends, exempt-interest dividends, capital gain dividends, tax-exempt interest payments, tax-deferred payments, distributions that are treated as a return of capital, or a payment where you are entitled to claim a foreign tax credit, you may be subject to income tax or a higher tax rate as a result of receiving a substitute payment.

If any of your non-fully paid for, margined securities have been loaned to others in accordance with the paragraph above, as of record date, you may not be entitled to vote all of those non-fully paid for shares in all proxy matters. We will determine the

eligibility of those shares for proxy matters based upon an impartial lottery system, which is described in this Agreement.

9. COMPOUND INTEREST

The interest charges imposed on your Account at the close of one charge period will be compounded, that is, added to the opening balance for the next charge period unless paid, thereby becoming part of the principal amount and bearing like interest.

10. SHORT SALES

Short sales may only be made in margin accounts and are subject to initial margin and margin maintenance requirements. You must designate any short sale at the time you place the order. In order to facilitate a short sale, the security that you are selling short must be able to be borrowed to cover the delivery to the purchaser(s). If the stock is recalled by the lender(s) of the securities, we will attempt to re-borrow the securities.

Short securities will be "marked to the market" periodically. If a security which you sold short (or "short against the box") appreciates in market value over the selling price, your margin account will be debited, and if the security depreciates in value your margin account will receive a credit.

If we are unable to re-borrow the securities, we may cover your short position by purchasing the securities on the open market at the then current market price without notice to you. If a short position is closed out, you will be liable for any resulting losses and all associated costs incurred by us.

You understand it is against industry rules to participate in a secondary offering in order to cover a short position in that security and you agree to notify us in writing if you have a short position in such security, to assist us in restricting such activity.

11. RESTRICTED SECURITIES

You will not buy, sell, or margin (borrow against) any securities of a corporation of which you are a director, executive officer, or 10% stockholder, or are otherwise classified as a control person, insider or affiliate of the issuer, or sell any securities that are subject to any restrictions on resale (whether by law, contract or legend on the security) or are not traded on or through a national securities exchange, automated quotation system, or other nationally recognized published interdealer quotation system, unless such purchase, sale, or loan has been disclosed in writing and agreed to by us.

III. TERMS AND CONDITIONS OF YOUR ADVISORY PROGRAM ACCOUNTS

When you open an Advisory Program Account, we will provide you with the Program Features and the Disclosure Documents that apply to the specific Advisory Program that you selected. We may permit you, at our sole discretion, to move to certain Advisory Programs without the need to open a new Advisory Account or sign a new Agreement. In such event, we will send you a confirmation letter reflecting your selection of the new Advisory Program in writing.

Delivery of the specific Program Features, which includes the advisory fees you will be charged for the Advisory Program, will serve to confirm your direction to retain WFA or the Manager you have selected in accordance with the terms of this Agreement.

By signing this Agreement, you agree that all of the terms and conditions of the Program Features you receive (either at the time you enter into this Agreement or at any time in the future) and any Account Application you complete are incorporated by reference into this Agreement as if they were fully set forth herein when you signed this Agreement. This means that your signature to this Agreement also serves as your agreement to be bound by all of the terms of the specific Program Features, including the fee schedule, for each specific Advisory Program shown on any confirmation letter we may provide to you.

A list of the Advisory Programs that are available and the corresponding Program Features for each Advisory Program are available to you at any time by contacting your Financial Advisor.

From time to time, we may require that you sign additional agreements or documents for certain services or instructions, including, but not limited to, an Advisory Program Account agreement for specific advisory programs, and such additional agreements and documents are incorporated by reference into this Agreement as if they were fully set forth herein when you signed the Agreement. If you open an Advisory Program Account after your execution of this Agreement, you may be required to execute an additional agreement specific to the Advisory Program Account(s). References to the "Agreement" include any supplemental Advisory Program Account agreements.

1. GENERAL TERMS

If you have opened a Discretionary Advisory Program Account, on the basis of your investment objectives and other individual circumstances and reasonable restrictions given by you, WFA will assist you in selecting a compatible Manager and/or investment strategy. Depending on the Advisory Program selected, WFA or the Manager you have selected will exercise discretion with respect to the day-to-day management of your Account continuously during the term of this Agreement and will buy, sell, or otherwise trade and settle securities or other investments for your Account in these discretionary programs without discussing these transactions with you in advance.

You understand that the selection, retention, and allocation to affiliated Managers may be more profitable than the selection, retention, and allocation to unaffiliated Managers. If you have opened a non-Discretionary Advisory Program Account, we will not have investment discretion over your account. You have the option of accepting our recommendations or selecting alternative investments.

You acknowledge that you have completed the Account Application and understand that we will rely on the information contained in the Account Application when making investment determinations for your Account.

At least annually, we will contact you to determine whether there have been any changes in the information provided in the Account Application. You agree to inform us in writing of any material change in the information included in your Account. Application or otherwise in your financial circumstances that might affect the manner in which your assets should be invested.

In deciding whether the Program is appropriate, you acknowledge that you have carefully considered all relevant factors, including past and anticipated trading practices and holdings, your investment strategies and trading patterns (including the frequency of trading and the number and size of the transactions that you anticipate effecting in the Program Account(s)), the costs and potential benefits of this type of Program(s) as compared to paying commissions on a per-trade basis, and your investment objectives and goals. In some instances, you may be able to invest in money market funds or mutual funds either directly or through other programs at a lower cost or at no additional cost to you.

You may contact us during normal business hours to consult with your Financial Advisor concerning management of your Account. Inquiries concerning the Agreement and Account should be directed to Wells Fargo Advisors, One North Jefferson Ave., St. Louis, MO 63103. All communications to you shall be sent to your address designated on the Account unless you specify otherwise in writing.

2. CONFIRMATIONS AND REPORTS

We will send confirmations of transactions and periodic Account statements to you. You may waive your right to receive trade-by-trade confirmations. If you open an eligible Advisory Program Account when you sign this Agreement, your initials on the Signature Page or Program Features indicate that you desire to waive trade-by-trade confirmations and your understanding that waiving your right to receive confirmations is not a condition to entering/participating in an Advisory Program and will not result in a different fee. If you elect to waive your right to receive trade-by-trade confirmations, you will receive periodic statements. Your waiver may be rescinded at any time.

A monitoring report will be provided to you periodically. You will review this material and report any discrepancies to us as soon as possible. This report will include a reminder to you to contact us if there are any changes in your financial situation or other information included in your Account Application and will disclose a method by which you may make such contact.

3. CASH SWEEP

Notwithstanding any other provision of this Agreement, uninvested cash balances in your Advisory Program Account(s) will be automatically deposited each day in one or more FDIC-insured depository accounts established ("Bank Deposit Sweep") with Wells Fargo Bank, N.A. and/or another bank affiliated with WFA, unless you are provided notice of another available alternative for uninvested cash balances in your Account(s).

For ERISA accounts, cash balances will be

placed in a money market mutual fund, including, as permitted by law, those with which WFA and its affiliates have agreements to provide advisory, administration, distribution and other services. WFA and its affiliates may receive compensation from any such fund only to the extent permitted by applicable law. The Cash Sweep Program, including the Bank Deposit Sweep, is described more fully in the Cash Sweep Program Disclosure Statement.

4. CUSTODY

Unless otherwise specified, we or our agent will maintain custody of the assets in the Advisory Program Account. We will credit the Advisory Program Account with dividends and interest paid on securities and with principal paid on called or matured securities in the Advisory Program Account.

5. EXECUTION

You hereby instruct the Manager and WFA to use WFA execution services for purchases and sales in the Account, except as otherwise may be necessary for the Manager or WFA to fulfill their respective best execution responsibilities. Fees cover transaction charges only when trades are effected through WFA and, consequently, it is expected that most trades will be effected through us. Unless specifically described in this Agreement, we will not assess or collect from you any transaction fee upon the purchase or redemption of any Eligible Shares. However, mutual funds may deduct redemption fees from your redemption proceeds, as stated in the fund's prospectus.

All capital gains and income dividends from your mutual funds will be reinvested into the respective fund unless otherwise directed by you. You hereby authorize that we may effect and execute brokerage transactions, including on a national exchange, as permitted by current provisions of Section 11(a) of the Securities Exchange Act of 1934, as amended (the "Exchange Act") and rules promulgated thereunder including any future amendments or changes to such statutes and rules.

You authorize us to act either as principal or as agent for buyer and seller in securities transactions when appropriate and permitted by law. Since we may profit by its principal transactions and would normally receive compensation from each party to such agency transactions there is a potentially conflicting division of responsibilities and loyalties. You may revoke the consent at any time by notifying us in writing. We will act as a principal under existing law only if, prior to each such transaction, we disclose the capacity in which we are acting and obtain your consent.

The securities traded for you may be traded in one or more marketplaces or, in the case of fixed income transactions, an alternative trading system (ATS), as is necessary to satisfy best execution responsibilities. You authorize orders to be aggregated with other clients where applicable.

6. FEES

Unless we agree separately in writing, you agree to pay us the fees described in the Program Features. These fees will be

deducted directly from the Account or from the Billing Account specified. You understand that the fees include, among other things, compensation for advisory services, and that they may be higher than certain other advisory and brokerage fee arrangements.

As used in the Agreement, the phrase "Account Value" means the sum of the absolute market value of all eligible long and short security positions, including accrued income, cash, and cash alternatives held in the Account. If your Account has short positions, the Account Value reflects the short position's absolute value. A short position does not offset the value of long positions in the Account.

Margin debit balances do not reduce the Account Value.

In valuing your Account, we will use the closing prices or, if not available, bid prices of the last recorded transaction for listed securities, options, and over-the-counter NASDAQ securities. For mutual funds, we will use the fund's most current net asset value, as computed by the fund company. In so doing, we will use the information provided by quotation services believed to be reliable. If any such prices are unavailable or believed to be unreliable, we will determine prices in good faith so as to reflect our understanding of fair market value. Due to trade date or settlement date accounting, the treatment of accrued income and other factors, the Account Value used in the calculation of fees may differ from that shown on your monthly Account statement and/or performance report.

Fee payment due dates and procedures.

An initial fee will be deducted from the Account, or the Billing Account, within five days of our acceptance of this Agreement.

This fee is based on the Account Value on the date the Account is accepted and is due for the partial calendar quarter beginning on that date. Thereafter, we will charge a quarterly fee in advance, generally within the first ten business days of each succeeding calendar quarter, based upon the Account Value on the last business day of the prior calendar quarter.

If cash and/or securities are added or withdrawn between billing periods, a prorated fee will be charged or refunded on the net value of the additions and/or withdrawals as of the date of activity and will be based on the rate effective for that quarter. Fees will be assessed or refunded in the following month only if the net fee generates a fee or refund of at least \$40. No fee adjustment will be made during any fee period for appreciation or depreciation in the value of the assets in the Account during that period.

By signing this Agreement, you agree to maintain or deposit sufficient funds in the Account to cover all fees and charges payable under this Agreement and you authorize us to debit the Account balances or redeem money market shares in an amount equal to all such fees and charges when due. If your Account does not have a sufficient cash balance or money market fund shares to make a payment on the due date, we may sell additional securities in the Account, without prior notice to you, to generate proceeds sufficient to pay the fees.

You may elect to pay the asset-based fees associated with your Account with funds outside of your IRA/ERISA Plan by debiting another non-IRA/ERISA account provided on the Program Features. You expressly assume responsibility and hold WFA harmless for any tax implications and any adverse consequences which may arise from this election and the payments made in connection with this election, and understand that we do not provide any legal or tax advice.

Other fees. The fee does not include certain dealer markups or markdowns, odd lot differentials, transfer taxes, exchange fees, execution fees (foreign and/or domestic) when applicable, ADR custodial pass through fees, any other fees identified as applicable to advisory accounts on the Annual and Operational Fee Schedule, as amended, which is incorporated by reference into this Agreement as if fully set forth herein, and any other fees required by law.

Your FA may suggest or we may permit you to hold other products and services that we offer not available through this Account ("Non-Program Assets"). In addition to Program fees, you also will incur any usual and customary brokerage charges and fees associated with Non-Program Assets. These may include (i) any dealer markups, odd-lot differentials, transfer taxes, and other fees; (ii) charges imposed by broker-dealers and custodians other than WFA and our affiliates, and fees for other products and services that WFA and our affiliates may offer; (iii) offering discounts, commissions, and related fees in connection with underwritten public offerings of securities; (iv) margin interest and operational fees and charges; (v) IRA fees; and (vi) any redemption fees, or other fees imposed in connection with transactions in such Non-Program Assets, whereby we and your FA may receive additional compensation on these Non-Program Assets. Other fees and charges associated with Non-Program Assets will be assessed on or about the transaction date or another date we determine.

We or our affiliates may receive additional compensation in connection with cash and cash alternatives held in the Account. The other compensation we receive may include, but is not limited to, administrative fees based on assets invested in money market funds used for cash sweep purposes.

Mutual fund payments. If applicable, as a shareholder of a mutual fund, closed-end fund or ETF, you will bear a proportionate share of the fund's expenses, including investment management fees paid to the fund's investment adviser, in addition to fees paid to WFA.

Mutual Funds and money market funds traded as part of the advisory Program are purchased at net asset value. We and/or any of our affiliates may receive additional compensation from mutual funds for the execution of purchases of fund shares or the performance of clearance, settlement, custodial, or other ancillary functions (for example, recordkeeping, sub-accounting, shareholder communications, administrative, and similar services provided to a fund for your benefit and that of other clients). We may collect such fees directly or indirectly and may pay any such fees to your FA. The

fees we receive vary, depending on the percentage paid pursuant to the Fund's Rule 12b-1 plan, or the agreement we or our affiliate may have made with the fund. The fees described in this paragraph will not exceed a maximum of 0.55% per year of the value of the assets invested in a fund, and may include a fixed charge not to exceed \$20 per shareholder account with the fund. You understand and agree to the payment of this compensation from mutual funds. With the exception of these fees, neither we nor any of our affiliates receives any charges, fees, discounts, penalties, or adjustments in connection with the purchase, holding, exchange, termination, or sale of shares of the affiliated funds.

Mutual funds managed by WFA or our affiliates will receive fees that are greater, in the aggregate, than what they would have received if the selected fund was not affiliated with WFA. WFA does not receive any separate or direct benefit, other than its normal and stated fees, if you select a fund affiliated with WFA.

In the case of ERISA Accounts, any fees described above that are paid to us, an affiliate or other such person will be credited against the fees due from you under this Agreement.

Alternative investment payments. As described in the relevant Private Placement Memorandum or offering document, which you should read before investing, investments in alternative investments are subject to other fees and expenses. In addition, WFA or its affiliates may receive compensation in the form of management or administrative fees from certain alternative investments available through the Program. The fees payable to WFA pursuant to this Agreement are unrelated to, and will not be altered as a result of, any fees paid by alternative investments to WFA or its affiliates. Fees and expenses charged by the alternative investments, including fees paid to WFA and its affiliates, ultimately are borne by you as an investor in the alternative investments.

Auction rate securities. Program fees will be applied to certain closed-end funds and municipal bonds, which are bought and sold at auctions held at predetermined intervals. In addition to the Program fee, WFA and its affiliates also receive a service charge or other compensation for participating in auctions of auction rate closed-end funds and municipal bonds. This service charge or other compensation, a portion of which may be paid to your Financial Advisor, is described generally in the relevant prospectus or offering documents.

7. SECURITIES TRANSFERS

Subject to the discretion of and acceptance by WFA and/or the applicable Manager, you may transfer securities into your Account. You understand that fees will be charged on transferred securities, which may have previously incurred transaction or other costs. WFA and/or the applicable Manager are not responsible for any actions undertaken by a broker-dealer or investment adviser prior to the transfer and you agree to hold WFA and/or the applicable Manager harmless and indemnify WFA and/or the applicable Manager from any and all liability, loss, or

damages arising directly or indirectly from any actions taken prior to the transfer of such securities into your Account. In addition, you understand that a WFA and/or applicable Manager may sell, liquidate or otherwise dispose of some or all of the securities transferred into the Account pursuant to the discretion of WFA and/or the Manager. You authorize WFA, at our discretion, to convert existing mutual funds in your Account to any available institutional share or advisory program share class ("Advisory Share Class") without your prior consent.

8. TERMINATION

You or we may terminate an Advisory Program Account by notifying the other party in writing of the Advisory Program Account to be terminated and termination will become effective upon the receipt of the notice. If an Advisory Program Account is terminated, we will make a pro-rata refund to you of fees paid to us pursuant to this Agreement for the period after the date of effectiveness of such termination through the end of the then current fee period, less reasonable start-up costs. However, termination will not affect either your or our responsibilities under this agreement for previously initiated transactions or for balances due in the Advisory Program Account upon termination. Upon termination we will have no further obligation to act for or advise the Advisory Program Account, and normal brokerage fees and charges will apply to the Account.

To the extent applicable, upon termination of an Advisory Program Account, you may, but you are not required to, request us to liquidate the Advisory Program Account. If you request us to liquidate the Advisory Program Account, we will do so in an orderly and efficient manner. There will be no charge by us for such liquidation; however, you should be aware that certain unit investment trusts and mutual funds impose redemption fees in certain circumstances as stated in each trust or fund prospectus. You must keep in mind that the decision to liquidate securities, unit investment trusts, or mutual funds may result in tax consequences that should be discussed with your tax advisor. Upon termination of the Account or transfer of the Advisory Share Class into a WFA retail brokerage account, you authorize us to revert, at our discretion, the Advisory Share Class to the mutual fund's primary share class, typically A shares, without incurring a commission or load without your prior consent. You understand that the primary share class generally has higher operating expenses than the Advisory Share Class, which may negatively affect your performance. Factors that may affect the liquidation of your Advisory Program Account would be size and type of issues, liquidity of the market, and market makers' abilities. Should the necessary securities markets be unavailable and trading suspended, efforts to trade will be done as soon as possible following their reopening. We are not responsible for market fluctuations in your Advisory Program Account from time of written notice until complete liquidation. All efforts will be made to process the liquidation in an efficient and timely manner. Your Advisory Program Account will terminate upon notification of your death.

Certain mutual fund shares may be required to be redeemed as part of the Account

termination, as stated in their prospectus.

9. RISK ACKNOWLEDGMENT

You acknowledge that past performance is no guarantee of future results to the Advisory Program Account and that all data provided by us may not be free from error or inaccuracies. All trading done in the Advisory Program Account is subject to market risk and investment performance of any kind can never be guaranteed. We make no representations or warranty under this Agreement with respect to the present or future level of risk or volatility in the Advisory Program Account, or future performance or activities.

10. OTHER CLIENTS; LIABILITY

We are under no obligation to effect any transaction for the Advisory Program Account that we believe to be improper. We are engaged in a wide range of securities services. We and/or your Manager may also give advice and take action in the performance of our duties to other clients that differ from the advice we give you. Or the timing and nature of actions we take may differ, which may cause the Account to receive higher or lower execution prices than such other accounts. Additionally, we may be limited in our ability to divulge or act upon certain information we possess as a result of investment banking activities or other confidential sources.

11. OUR REPRESENTATIONS

We represent that we are an investment adviser registered under the Investment Advisers Act of 1940, as amended, and that we are authorized and empowered to enter into this Agreement.

12. IMPORTANT INFORMATION FOR INVESTMENT ADVISORY ACCOUNTS OWNED BY NON-NATURAL PERSONS

For accounts that are beneficially owned by non-natural persons, please note that Wells Fargo Advisors, LLC and Wells Fargo Advisors Financial Network, LLC (collectively "WFA") will not provide investment advisory services to certain trusts or other legal entities that meet the definition of a "Covered Fund" under the Volcker Rule (17 C.F.R. Part 255).

Unless you notify us promptly to the contrary, WFA will assume that the beneficial owner of this account(s) does not meet the definition of an "investment company," as defined in the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) nor the definition of a "commodity pool" under section 1a(10) of the Commodity Exchange Act (7 U.S.C. 1a(10)). Furthermore, you agree to notify your Financial Advisor immediately if the beneficial owner of this account ever meets the definition of an "investment company" or "commodity pool," and we will convert the account to a brokerage account where customary brokerage charges and fees will apply.

For the purposes of this section, the term "investment company" means an issuer that (i) is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, or trading in securities; (ii) is engaged or

proposes to engage in the business of issuing face-amount certificates of the installment type, or has been engaged in such business and has any such certificate outstanding; or (iii) is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis. A commodity pool means any investment trust, syndicate, or similar form of enterprise operated for the purpose of trading in commodity interests, including any (i) commodity for future delivery, security futures product, or swap; (ii) agreement, contract, or transaction described in certain foreign currency futures or certain retail commodity transactions; (iii) certain commodity options; or (iv) certain leverage transactions.

13. EFFECTIVE DATE OF AGREEMENT; ACTIVATING YOUR ADVISORY PROGRAM ACCOUNT

This Agreement will not be effective as to any particular Advisory Program Account until accepted by us. Further, in the event you select a new Advisory Program by providing verbal authorization to your Financial Advisor, this Agreement will not be effective as to the new Advisory Program until our acceptance of your instruction. Preliminary discussions or recommendations that occur before the effective date of this Agreement as to any particular Advisory Program are not intended as investment advice and should not be relied on as such.

By signing this Agreement, you acknowledge receipt of the Disclosure Document relating to your particular Advisory Program Account.

If you have not yet received the applicable Disclosure Document, you understand that we will deliver the applicable Disclosure Document prior to the effectiveness of this Agreement with respect to the corresponding Advisory Program Account.

We reserve the right to refuse for any reason to open any Advisory Program Account. No Advisory Program Account shall become active until you have provided us with the information, funds, and securities necessary to commence activity within your Advisory Program Account. Your request to begin services under this Agreement is not considered a market order, since both WFA and/or your Manager require time to process your request. We will, however, make every effort to process your request promptly.

We and/or your Manager will comply with any reasonable instructions given by you (in writing) concerning management of an Advisory Program Account. Reasonable instructions given by you may include prohibitions with respect to the purchase or sale of particular securities or types of securities. If your instructions are unreasonable, or we believe that the instructions are inappropriate for you, we will notify you that, unless the instructions are modified, we may cancel the Account. You understand that you will not be able to provide instructions that prohibit or restrict the investment adviser of a mutual fund or ETF with respect to the purchase or sale of

specific securities or types of securities within the fund.

14. AMENDMENT

This Agreement may not be modified or amended by you except through written amendment signed by WFA and you, provided however, that we may permit you, at our sole discretion, to move to certain Advisory Programs or change certain Advisory Program features without the need to open a new Advisory Account or sign a new Agreement. In such event, we will send you a confirmation letter reflecting your selection of the new Advisory Program in writing. WFA may amend this Agreement at any time upon fifteen days' written notice to you. Your continued use of the services indicates your agreement to the modified terms.

15. LEGAL PROCEEDINGS

With respect to the securities held in the Account, or the issuer of securities, which become the subject of legal proceedings, including rights or tender offers, bankruptcy, or a class action lawsuit, you direct us to forward information related to such legal proceedings directly to you. WFA and/or the Manager will not be obligated to render any advice or take any action with respect to legal proceedings. Our sole obligation will be to forward such information within a reasonable period of time to you and act on any instructions we receive from you.

16. PLEDGE, VOTE, ACT AS SECURITY HOLDER

You will retain (i) the ability to withdraw or pledge any securities in the Account; (ii) the right to vote securities or to delegate the voting authority, and to revoke such delegation, to another person; and (iii) the right to proceed directly as a security holder against the issuer of any security in your Account without having to join any person involved in the operation of an Advisory Program as a condition precedent to proceeding against the issuer.

17. ERISA MATTERS

If an Account is established on behalf of an employee benefit plan subject to the provisions of ERISA, solely with respect to Accounts in a Discretionary Program, then we acknowledge that we are a "fiduciary" (as that term is defined in ERISA) with respect to your Account, but only to the extent of our responsibilities under this Agreement and only with respect to monies or other property actually received by us on your behalf. The person executing this Agreement on your behalf hereby represents that it is a "named fiduciary" as that term is defined in ERISA, with respect to the control or management of the assets of the Plan or Account and that it is empowered to appoint an "investment manager," as that term is defined in ERISA, with respect to the assets of the Account. The fiduciary representative(s) of any client who completes the Account Application acknowledge that they have reviewed and approved the Account Application and represents that it is consistent with the plan and related trust agreement. You, and the person executing this Agreement on your behalf, represent that you have specifically considered the role that the investment

strategy and course of action contemplated by this Agreement will play in your investment portfolio as a whole, including consideration of (i) the risk of loss and the opportunity for gain (or other return) associated with the investment strategy and investment course of action; (ii) the composition of your investment portfolio with regard to diversification; (iii) the liquidity and current return of your investment portfolio relative to your anticipated cash flow requirements; and (iv) the projected return on your investment portfolio relative to your investment objectives. You acknowledge and agree that WFA will rely on this representation in performing our duties under this Agreement.

For non-Discretionary Advisory Programs and Private Advisor Network, you understand and acknowledge that WFA will not be acting as a fiduciary within the meaning of the Employee Retirement Income Security Act of 1974, as amended (ERISA), or the Internal Revenue Code of 1986, as amended. You represent and agree that WFA recommendations will not serve as a primary basis for investment decisions for the Account(s).

You approve the investment of Account assets in mutual funds, including mutual funds advised, administered, or distributed by WFA or the Manager, WFA or an affiliate of WFA or a Manager ("affiliated funds"), and you approve the investment advisory and other fees paid by each such affiliated fund in relation to the fees paid by the plan under this Agreement. You acknowledge receipt of the current prospectus issued by each affiliated fund and give your approval on the basis of the information contained in the prospectus. We agree that such affiliated fund investments will be made in conformity with the provisions set forth in the United States Department of Labor's Prohibited Transaction Class Exemption 77-4.

To the extent that bonding is required pursuant to ERISA section 412, you agree to obtain and maintain for the period of this Agreement any bond required pursuant to section 412 of ERISA or any other applicable law and to include within the coverage of the bond WFA and any of WFA's officers, directors and employees whose inclusion is required by law. You agree to promptly provide WFA with appropriate documents evidencing this coverage upon request.

Other Tax-Favored Account: You hereby represent and warrant that the person executing this Agreement on behalf of the Account or plan, as the case may be, is either the Account owner or appropriate fiduciary to enter into this Agreement on behalf of the Account or plan and that it will notify WFA if its status or authority should change.

FRED D TOWNSEND JR
2443 OLD BARNWELL RD
LEXINGTON SC 29073-7725

Signature Page

Sub Firm #	1	BR Code	PCSC	FA Code	JPC3	Account Number	-6621
Account Type A-Individual							

BY SIGNING THIS PAGE, I/WE ("I") ACKNOWLEDGE THAT I HAVE RECEIVED AND REVIEWED A COPY OF MY/OUR INVESTMENT PROFILE(S) INCLUDED IN THIS PACKAGE AND, IN THE CASE OF AN ADVISORY PROGRAM ACCOUNT, THE DISCLOSURE DOCUMENT(S) RELATING TO MY PARTICULAR ADVISORY PROGRAM ACCOUNT, AND I HAVE READ AND AGREE TO BE BOUND BY THE AGREEMENTS AND/OR DOCUMENTS LISTED BELOW AND ANY OTHER AGREEMENTS AND DOCUMENTS THAT ARE INCORPORATED BY REFERENCE INTO SUCH AGREEMENTS AND/OR DOCUMENTS.

040 - Client Agreement, WFA
020 - Account Application - NA1
050 - Associated Person Information *

I understand and acknowledge that investments and insurance products in my brokerage account:

- are NOT insured by the FDIC or any other federal government agency
- are NOT obligations or deposits of or guaranteed by any Wells Fargo Bank or by any Bank affiliate
- involve investment risk, including possible loss of principal

I agree to promptly review and immediately advise Wells Fargo Advisors if any of the Owners and/or Account Profile Information is not accurate or becomes inaccurate. I understand that Wells Fargo Advisors will rely on this information and that it is my responsibility to provide accurate and timely updates. My failure to do so may affect recommendations that are given to me related to investments in my Account. If I decide to close or make changes to my Account, I will provide notification to Wells Fargo Advisors.

TRANSACTION CONFIRMATION WAIVER - DISCRETIONARY ADVISORY PROGRAM ACCOUNTS

By initiating here, I waive receipt of trade-by-trade confirmations and understand that waiving this right is not a condition of participating in the Program and will not result in a different fee. I may rescind my waiver at any time and may request, for no additional cost, confirmations for any transactions effected for up to one year preceding my last statement. In the case of Variable Annuitants, we will send you transaction confirmations for your Account. See Client Agreement, Confirmations and Reports.

BY SIGNING THIS SIGNATURE PAGE, I/WE AUTHORIZE, ACKNOWLEDGE AND AGREE TO THE TERMS AND CONDITIONS OF THE CLIENT AGREEMENT AND TO THE FOLLOWING:

- **Margin:** If this is a Margin Account, my securities may be loaned to First Clearing, LLC or loaned to others.
- **Communications Consent:** My Financial Advisor may contact me/us as described in the Communications, Recording and Monitoring, Statements and Confirmations section of the Client Agreement.
- **Command Asset Program Account Holders:** In connection with the Command Asset Program, Wells Fargo Bank, N.A. may establish a Bank Account in my/our name(s) and provide the banking-related services under the terms set forth in the Command Agreement and may make any inquiry it considers appropriate, including credit or other reports, to determine if the Bank Account should be opened. I/We also agree to the terms of the dispute resolution program described in the Command Agreement relating to disputes specifically involving the Bank Account.
- **Joint Account Holders with Rights of Survivorship in Alabama, North Carolina, Tennessee, Texas, and Virginia Only:** The persons signing below agree with each other and Wells Fargo Advisors that this account is a joint account with right of survivorship and that on the death of one party to a joint account all sums in the account on the date of death vest in and belong to the surviving party as his or her separate property and estate. Each person signing below who is married to a person who is not also signing below represents and warrants that no assets now or hereafter deposited to the account, nor any interest earned on such assets, are subject to the management, control or disposition (jointly or otherwise) of such person's spouse.

W-9: Payer's Request for Taxpayer Identification Number

Requester: First Clearing, LLC
One North Jefferson, St. Louis, MO 63103
Is this your correct Social Security/Tax ID?
If not, please enter the correct number in the appropriate boxes.

☒ Social Security
☐ Tax ID
or
☐ Corrected Social Security/
Tax ID (Please omit dashes)

Under penalties of perjury, I certify that:

1) The number shown on this form is my correct Taxpayer Identification Number (or I am waiting for a number to be issued to me); and 2) I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and 3) I am a U.S. citizen or other U.S. person; and 4) The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct. (NOTE: The FATCA code is not applicable for accounts maintained in the United States.)

☐ Check here if you have been notified by the IRS that you are currently subject to backup withholding because of underreporting interest or dividends on your tax return.

THE INTERNAL REVENUE SERVICE DOES NOT REQUIRE YOUR CONSENT TO ANY PROVISION OF THIS DOCUMENT OTHER THAN THE CERTIFICATIONS REQUIRED TO AVOID BACKUP WITHHOLDING.

THIS CLIENT AGREEMENT CONTAINS A PRE-DISPUTE ARBITRATION CLAUSE LOCATED ON PAGE 2 IN SECTION I, PARAGRAPH 5. BY EXECUTING THIS DOCUMENT CLIENT IS AGREEING TO BE BOUND BY THE PRE-DISPUTE ARBITRATION CLAUSE. THE UNDERSIGNED HEREBY ACKNOWLEDGES RECEIPT OF A COPY OF THE CLIENT AGREEMENT.

MUST SIGN AND DATE

I agree to the terms and conditions of this agreement and attest that the certification made on the W-9 above is true.

Signature of FRED D TOWNSEND JR <i>Fred D Townsend Jr</i>	(Primary Owner) Use BLACK Ink only	Title if Applicable	Date (Required) 7-28-15
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I agree to the terms and conditions of this agreement.

Signature of <i>Howard B. Townsend</i>	Title if Applicable POA Assoc. Person	Date (Required) 7-28-15
Signature of <i>X</i>	Title if Applicable	Date (Required)
Signature of <i>X</i>	Title if Applicable	Date (Required)
Signature of <i>X</i>	Title if Applicable	Date (Required)

HOWARD B TOWNSEND
2443 OLD BARNWELL RD
LEXINGTON SC 29073-7725

Signature Page

Sub Firm #	1	BR Code	PCSC	FA Code	JPC3	Account Num	-5944
Account Type A-Individual							

BY SIGNING THIS PAGE, I/WE ("I") ACKNOWLEDGE THAT I HAVE RECEIVED AND REVIEWED A COPY OF MY/OUR INVESTMENT PROFILE(S) INCLUDED IN THIS PACKAGE AND, IN THE CASE OF AN ADVISORY PROGRAM ACCOUNT, THE DISCLOSURE DOCUMENT(S) RELATING TO MY PARTICULAR ADVISORY PROGRAM ACCOUNT, AND I HAVE READ AND AGREE TO BE BOUND BY THE AGREEMENTS AND/OR DOCUMENTS LISTED BELOW AND ANY OTHER AGREEMENTS AND DOCUMENTS THAT ARE INCORPORATED BY REFERENCE INTO SUCH AGREEMENTS AND/OR DOCUMENTS.

040 - Client Agreement, WFA
020 - Account Application - NA1

I understand and acknowledge that investments and insurance products in my brokerage account:

- are NOT insured by the FDIC or any other federal government agency
- are NOT obligations or deposits of or guaranteed by any Wells Fargo Bank or by any Bank affiliate
- involve investment risk, including possible loss of principal

I agree to promptly review and immediately advise Wells Fargo Advisors if any of the Owners and/or Account Profile information is not accurate or becomes inaccurate. I understand that Wells Fargo Advisors will rely on this information and that it is my responsibility to provide accurate and timely updates. My failure to do so may affect recommendations that are given to me related to investments in my Account. If I decide to close or make changes to my Account, I will provide notification to Wells Fargo Advisors.

TRANSACTION CONFIRMATION WAIVER - DISCRETIONARY ADVISORY PROGRAM ACCOUNTS

By initialing here, I waive receipt of trade-by-trade confirmations and understand that waiving this right is not a condition of participating in the Program and will not result in a different fee. I may request my waiver at any time and may request, for no additional cost, confirmations for any transactions effected for up to one year preceding my last statement. In the case of Variable Annuities, we will send you transaction confirmations for your Account. See Client Agreement, Confirmations and Reports.

BY SIGNING THIS SIGNATURE PAGE, I/WE AUTHORIZE, ACKNOWLEDGE AND AGREE TO THE TERMS AND CONDITIONS OF THE CLIENT AGREEMENT AND TO THE FOLLOWING:

- Margin: If this is a Margin Account, my securities may be loaned to First Clearing, LLC or loaned to others.
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- Joint Account Holders with Rights of Survivorship in Alabama, North Carolina, Tennessee, Texas, and Virginia Only: The persons signing below agree with each other and Wells Fargo Advisors that this account is a joint account with right of survivorship and that on the death of one party to a joint account all sums in the account on the date of death vest in and belong to the surviving party as his or her separate property and estate. Each person signing below who is married to a person who is not also signing below represents and warrants that no assets now or hereafter deposited to the account, nor any interest earned on such assets, are subject to the management, control or disposition (jointly or otherwise) of such person's spouse.

W-9: Payer's Request for Taxpayer Identification Number

Requestor: First Clearing, LLC
One North Jefferson, St. Louis, MO 63103
Is this your correct Social Security/Tax ID?
If not, please enter the correct number in the appropriate boxes.

☒ Social Security
☐ Tax ID
or
☐ Corrected
Social Security/
Tax ID (Please omit dashes)

Under penalties of perjury, I certify that:

1) The number shown on this form is my correct Taxpayer Identification Number (or I am waiting for a number to be issued to me); and 2) I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and 3) I am a U.S. citizen or other U.S. person; and 4) The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct. (NOTE: The FATCA code is not applicable for accounts maintained in the United States.)

☐ Check here if you have been notified by the IRS that you are currently subject to backup withholding because of underreporting interest or dividends on your tax return.

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MUST SIGN AND DATE

I agree to the terms and conditions of this agreement and attest that the certification made on the W-9 above is true.

Signature of HOWARD B TOWNSEND (Primary Owner) Use BLACK ink only.	Title if Applicable	Date (Required) 7-28-15
---	---------------------	----------------------------

I agree to the terms and conditions of this agreement.

Signature of X	Title if Applicable	Date (Required)
Signature of X	Title if Applicable	Date (Required)
Signature of X	Title if Applicable	Date (Required)
Signature of X	Title if Applicable	Date (Required)

ROBINSON
BRADSHAW

bchurch@robinsonbradshaw.com
704.377.8166 : Direct Phone
704.339.3466 : Direct Fax

January 31, 2018

VIA FEDERAL EXPRESS:

Richland County Clerk of Court
1701 Main Street, Rm 205
Columbia, SC 29202

Re: *Shriners Hospitals For Children, et al. v. Wells Fargo Advisors, LLC, et al.*
Case No. 2017-CP-40-07131

Dear Sir/Madam:

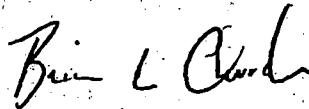
Please be advised that we represent the defendants in the above-referenced matter. Enclosed for filing on behalf of the defendants are: Defendants' Motion to Compel Arbitration and to Dismiss or, in the Alternative, to Stay Action; the Affidavit of Michele R. Pevehouse (in support of same); and our \$25.00 check for the filing fee.

I would ask that you kindly file the original documents and return the file-stamped copies in the envelope I have enclosed for your convenience.

Thank you for your assistance.

Sincerely,

ROBINSON, BRADSHAW & HINSON, P.A.



Brian L. Church

BLC/jjo
Enc

3/1/18
2-1-18

cc: Counsel of Record (w/enc.) (via US Mail)

Happel, Wanda

From: Courtmail40_DoNotReply@sccourts.org
Sent: Thursday, June 28, 2018 11:34 AM
To: Happel, Wanda
Cc: Henley.Anne@richlandcountysc.gov
Subject: Motion "MCOMPL-Motion To Compel Arbitration And To Dismiss OR, In The Alte" for Case "2017CP4007131- Shriners Hospitals For Children , plaintiff, et al vs Wells Fargo Advisors LLC , defendant, et al" was added to a Motions Roster for 7/31/2018 at 2:0

The above referenced case is SCHEDULED for Motions Hearing before Judge Jocellyn Newman in Courtroom 2C. The Plaintiff's Attorney is to notify the Defendant in writing of the time and date of all Default and Damages Hearings. All requests for continuances must be in writing with a \$25.00 filing fee and received by the Chief Administrative Judge prior to the hearing. A request for a continuance does not guarantee that a case will be continued. Please notify the Court in writing if the Motions are resolved prior to the hearing. Please send any memorandum and or briefs to the Judge by Wednesday July 25, 2018 @ jnewmanlc@sccourts.org.

~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

FIFTH JUDICIAL CIRCUIT

Shriners Hospitals for Children, Dorraine  
Lester, Fred Townsend, and Howard  
Townsend

Plaintiffs,

vs.

Wells Fargo Clearing Services, LLC  
d/b/a/ Wells Fargo Advisors, LLC, Wells  
Fargo Advisors, LLC, and Jessie Rowe  
Faircloth,

Defendants.

Civil Action No: 2017-CP-40-07131

**AMENDED SUMMONS**

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is hereby served on you, and to serve a copy of your Answer to the said Complaint upon the subscribers at 1329 Blanding Street, Columbia, South Carolina 29201, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in such Complaint.

Respectfully submitted,

RIKARD & PROTOPAPAS, LLC

s/ Peter D. Protopapas

Robert G. Rikard (12340)

Peter D. Protopapas (68304)

1329 Blanding Street

PO Box 5640 (29250)

Columbia, SC 29201

PH: 803-978-6111

FAX: 803-978-6112

[rgr@rplegalgroup.com](mailto:rgr@rplegalgroup.com)

[pdp@rplegalgroup.com](mailto:pdp@rplegalgroup.com)

July 3, 2018

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH JUDICIAL CIRCUIT

Shriners Hospitals for Children, Dorraine  
Lester, Fred Townsend, and Howard  
Townsend

Plaintiffs,

vs.

Wells Fargo Clearing Services, LLC  
d/b/a/ Wells Fargo Advisors, LLC, Wells  
Fargo Advisors, LLC, and Jessie Rowe  
Faircloth,

Defendants.

Civil Action No: 2017-CP-40-07131

**AMENDED COMPLAINT**  
(Jury Trial Demanded)

This case arises out of Defendants negligent and grossly negligent financial planning advice. Defendants' actions violated Wells Fargo Advisors, LLC's internal policies and procedures, as well as their generally accepted standards of care and their common law duties.

**PARTIES AND VENUE**

1. At all times relevant to the Complaint, Shriners Hospitals for Children is a Colorado nonprofit corporation with its headquarters located at 2900 Rocky Point Drive, Tampa, FL 33607. Dorraine Lester, Fred Townsend, and Howard Townsend are citizens and residents of South Carolina.
2. Upon information and belief, Defendant Wells Fargo Clearing Services, LLC d/b/a Wells Fargo Advisors, LLC and Wells Fargo Advisors, LLC (collectively "Wells Fargo") are limited liability companies formed in one of the states of the United States with an office and employees in Richland County South Carolina.

3. Defendant Jessie Rowe Faircloth is, upon information and belief a citizen of South Carolina and a resident of Lexington County South Carolina.

#### VENUE

4. Venue is appropriate in Richland County as the acts and circumstances complained of occurred in Richland County.

#### FACTS

5. Kathlyn Leaphart, was a citizen and resident of Richland County South Carolina before she passed away on July 4, 2015.
6. Prior to her passing, Ms. Leaphart utilized Defendants for financial advice and planning.
7. On or about April of 2015, Ms. Leaphart advised her longtime friend Dorraine Lester that Ms. Leaphart would need Ms. Lester's assistance in getting Ms. Leaphart's finances in order.
8. On or about June 7, 2015, Ms. Leaphart became ill and was admitted into Providence Hospital where she died on July 4, 2015.
9. From June 7-July 4, 2015, Ms. Leaphart's physical health deteriorated.
10. Ms. Leaphart decided to implement her prior decision to arrange her finances in the event that she passed.
11. Ms. Leaphart advised Ms. Lester to retrieve financial papers from Ms. Leaphart's home.
12. Ms. Lester retrieved the papers.
13. Ms. Leaphart instructed Ms. Lester to call her Wells Fargo representative to arrange a meeting wherein Ms. Leaphart could arrange her finances as she chose.

14. Neither Ms. Leaphart's Wells Fargo representative, nor his subordinate were available to meet with Ms. Leaphart and instead, Wells Fargo sent Defendant Faircloth to meet with Ms. Leaphart at the Hospital.
15. Defendant Ms. Faircloth did not have experience in meeting with critically ill clients to arrange finances.
16. Defendant Wells Fargo failed to supervise Ms. Faircloth's actions but instead left it to Ms. Faircloth to figure out.
17. On or about June 22, 2015, Ms. Faircloth came to the Hospital with forms for Ms. Leaphart and met with Ms. Leaphart and Ms. Lester.
18. Ms. Leaphart instructed Ms. Faircloth to transfer securities into a Wells Fargo securities account. Ms. Faircloth and Wells Fargo accepted the verbal instruction of Ms. Leaphart and transferred securities to a Wells Fargo Account.
19. Ms. Faircloth also left forms for Ms. Leaphart including: change of beneficiary forms for three annuities and a transfer on death form for the Wells Fargo Securities account.
20. After Ms. Faircloth left, Ms. Leaphart determined that:
  - a. Shriners Hospitals for Children would be the beneficiary of the largest annuity which was with TransAmerica;
  - b. Ms. Leaphart's niece would be the beneficiary of the smallest annuity which was with TransAmerica;
  - c. Howard and Fred Townsend would be the beneficiaries of the middle sized annuity with Pacific Life; and,

d. Ms. Leaphart also determined that Dorraine Lester would receive the securities account upon death.

21. On or about June 22, 2015, after instructing Ms. Lester as to her wishes, Ms. Leaphart signed the four forms in blank.

22. On or about June 23, 2015, Ms. Leaphart called Ms. Faircloth, advised Ms. Faircloth that she had signed the forms, instructed Ms. Faircloth that Ms. Lester was going to visit Ms. Faircloth and to help Ms. Faircloth effect Ms. Leaphart's instructions.

23. Ms. Leaphart then instructed Ms. Lester to go to Wells Fargo with the forms to meet with Ms. Faircloth.

24. Ms. Lester followed Ms. Leaphart's instructions and went to Wells Fargo and met with Ms. Faircloth.

25. Ms. Faircloth, in violation of Wells Fargo policy, assisted Ms. Lester in filling out the blank signed forms, including the change in annuity beneficiary forms as well as the transfer on death form.

26. After following Ms. Faircloth's instructions, Ms. Lester gave Ms. Faircloth the forms and Ms. Lester left Wells Fargo's office.

27. Ms. Faircloth should not have assisted in the filling out of the forms. Instead, Ms. Faircloth should have returned to the Hospital to meet with Ms. Leaphart and assist Ms. Leaphart in completing the forms and obtain proper witness signatures.

28. Defendants knew or should have known that their instructions to Ms. Leaphart and to Ms. Lester were insufficient to effect Ms. Leaphart's wishes.

29. Defendant Wells Fargo knew or should have known that it needed to supervise Ms. Faircloth and to properly train her on how to properly effect Ms. Leaphart's wishes.
30. As a result of Defendants' acts and omissions, Ms. Leaphart's wishes were frustrated and her intended beneficiaries did not receive what they otherwise should have been entitled. Plaintiffs have suffered substantial damages as a direct and proximate result of the Defendants' acts and omissions.

**FOR A FIRST CAUSE OF ACTION**  
**NEGLIGENCE/GROSS NEGLIGENCE**

31. Plaintiffs incorporate the above paragraphs by reference as if recounted at length herein.
32. Defendants provided advice and instruction to Ms. Leaphart within the course of their business, profession, or employment.
33. Defendants had a pecuniary interest in supplying this information.
34. Defendants knew that their advice would benefit Plaintiffs.
35. Defendants breached the duty of care by, among other things, failing to properly advise Ms. Leaphart on the proper methods to effectuate Ms. Leaphart's intent on her financial planning.
36. The documents that Defendants provided and supervised their filling out were intended to make the Plaintiffs the beneficiaries of certain of Ms. Leaphart's assets.
37. The documents were to provide for the transfer of the annuities and securities upon death to the Plaintiffs.

38. It was directly foreseeable that Defendants improper advice and assistance in the completion of the necessary forms would result in harm to the Plaintiffs.

39. Without the proper documents, the Plaintiffs have sustained sum certain loss and injury and Ms. Leaphart's intent is frustrated.

40. The Plaintiffs are damaged by the Defendants' conduct and but for this action would not be able to recover for this wrong.

41. As a result, Defendants conduct directly and proximately has caused the Plaintiffs' injury and Plaintiffs have sustained actual and consequential damages.

**FOR A SECOND CAUSE OF ACTION**  
**NEGLIGENT SUPERVISION AND TRAINING**

42. Plaintiffs incorporate the above paragraphs by reference as if recounted at length herein.

43. Defendant Wells Fargo had a duty to properly train and supervise its employee in the proper methods to change annuity beneficiaries as well as payment upon death of securities accounts.

44. Defendant Wells Fargo knew or should have known that its employee Defendant Faircloth did not know the proper procedure to effect a change in beneficiary in an annuity or in a payment upon death for a securities account.

45. Defendant Wells Fargo had the ability to supervise and train its employee and knew of the necessity of doing so, yet failed to train and supervise its employee.

46. As a direct and proximate result of the Defendant Wells Fargo's failure to supervise and train its employees, Plaintiffs have proximately suffered actual and consequential damages.

Wherefore, the Plaintiffs respectfully pray for judgment against the Defendants for actual, punitive damages in an amount to be determined at the trial of this action, prejudgment interest, for the costs and disbursements of this action, and for such other and further relief as this Court Deems Just and proper.

RIKARD & PROTOPAPAS, LLC

s/ Peter D. Protopapas

Robert G. Rikard SC BAR 12340

Peter D. Protopapas SC BAR 68304

1329 Blanding Street

PO Box 5640 (29250)

Columbia, SC 29201

PH: 803-978-6111

FAX: 803-978-6112

[rgr@rplegalgroup.com](mailto:rgr@rplegalgroup.com)

[pdp@rplegalgroup.com](mailto:pdp@rplegalgroup.com)

July 3, 2018

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH JUDICIAL CIRCUIT

Shriners Hospitals for Children, Dorraine  
Lester, Fred Townsend, and Howard  
Townsend

Plaintiffs,

vs.

Wells Fargo Clearing Services, LLC  
d/b/a/ Wells Fargo Advisors, LLC, Wells  
Fargo Advisors, LLC, and Jessie Rowe  
Faircloth,

Defendants.

Civil Action No: 2017-CP-40-07131

**NOTICE OF FILING AFFIDAVIT IN  
SUPPORT OF ENTRY OF DEFAULT  
JUDGMENT AGAINST DEFENDANTS  
WELLS FARGO ADVISORS, LLC AND  
JESSIE ROWE FAIRCLOTH**

YOU WILL PLEASE TAKE NOTICE that attorneys for the Plaintiffs hereby submit  
the Affidavit in Support of Entry of Default Judgment against Defendants Wells Fargo  
Advisors, LLC and Jessie Rowe Faircloth (attached hereto as Exhibit A).

RIKARD & PROTOPAPAS, LLC

s/ Peter D. Protopapas

Peter D. Protopapas (68304)

Robert G. Rikard (12340)

Rikard & Protopapas, LLC

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rgr@rplegalgroup.com

July 27, 2018

Columbia, South Carolina

# EXHIBIT A

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH JUDICIAL CIRCUIT

Shriners Hospitals for Children, Dorraine  
Lester, Fred Townsend, and Howard  
Townsend

Plaintiffs,

vs.

Wells Fargo Clearing Services, LLC  
d/b/a/ Wells Fargo Advisors, LLC, Wells  
Fargo Advisors, LLC, and Jessie Rowe  
Faircloth,

Defendants.

Civil Action No: 2017-CP-40-07131

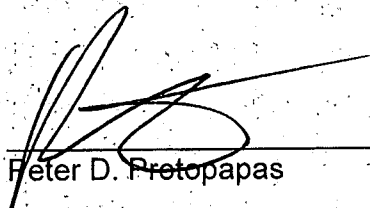
**AFFIDAVIT IN SUPPORT OF ENTRY  
OF DEFAULT JUDGMENT AGAINST  
DEFENDANTS WELLS FARGO  
ADVISORS, LLC AND JESSIE ROWE  
FAIRCLOTH**

Personally appeared before me, the undersigned Notary Public duly authorized  
to administer oaths, Peter D. Protopapas, who being duly sworn, deposes and says:

1. I am competent to testify as to the matters stated herein.
2. I am admitted to the Bar of this State and serve as counsel of record for  
Plaintiff.
3. The Defendants, Wells Fargo Advisors, LLC and Jessie Rowe Faircloth,  
are in default. The Defendant was served with the Amended Complaint on July 3, 2018.  
**See Exhibit 1, Notice of Electronic Filing of Amended Complaint reflecting  
Stephen M. Cox served.**
5. More than fifteen (15) days have passed since these Defendants were  
served and these Defendants have not filed an answer or otherwise responded,  
pursuant to the Rules of Civil Procedure.

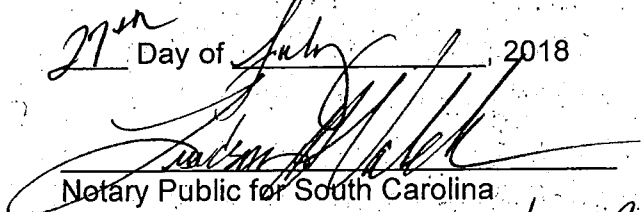
6. Because the Defendants have not filed any response to the Amended Complaint and the time for responding has passed, the Plaintiffs are entitled to entry of Default and Default Judgment.

FURTHER AFFIANT SAITH NOT.

  
Peter D. Protopapas

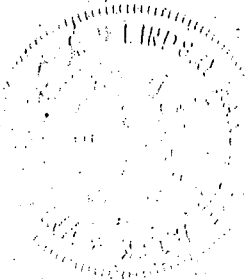
Sworn to and subscribed before me this

27<sup>th</sup> Day of July, 2018

  
Notary Public for South Carolina

My Commission Expires:

3/31/2021



# EXHIBIT 1

**Lindsay Valek**

---

**From:** efiledonotreply@sccourts.org  
**Sent:** Tuesday, July 3, 2018 1:04 PM  
**To:** Peter Protopapas  
**Cc:** Lindsay Valek  
**Subject:** Courtesy NEF RE: 2017CP4007131

\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*

**NOTICE OF ELECTRONIC FILING [NEF]**

---

A filing has been submitted to the court RE: 2017CP4007131

**Official File Stamp:** 07-03-2018 01:03:13 PM  
**Court:** CIRCUIT COURT  
Common Pleas  
Richland  
**Case Caption:** Shriners Hospitals For Children , plaintiff, et al vs Wells Fargo Advisors LLC ,  
defendant, et al  
**Document(s) Submitted:** Amended/Amended Summons And Complaint  
**Filed by or on behalf of:** Peter Demos Protopapas

This notice was automatically generated by the Court's auto-notification system.

---

**The following people were served electronically:**

Stephen M. Cox for Wells Fargo Advisors LLC  
Peter Demos Protopapas for Shriners Hospitals For Children

**The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:**

Howard Townsend  
Jessie Rowe Faircloth  
Fred Townsend  
Doraine Lester

~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

STATE OF SOUTH CAROLINA
COUNTY OF Richland
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2017CP4007131

Shriners Hospitals For Children et al
PLAINTIFF(S)

Wells Fargo Advisors LLC et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (CHECK REASON): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (CHECK REASON): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

Plaintiff's Motion of Default was denied.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 07/30/2018

Howard Townsend
Jessie Rowe Faircloth
Fred Townsend
Doraine Lester
Wells Fargo Clearing Services Llc

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Richland Common Pleas

Case Caption: Shriners Hospitals For Children , plaintiff, et al vs Wells Fargo
Advisors LLC , defendant, et al
Case Number: 2017CP4007131
Type: Order/Electronic Form 4

So Ordered

s/ R.E. Hood #2164

Electronically signed on 2018-07-30 14:33:11 page 3 of 3

STATE OF SOUTH CAROLINA
COUNTY OF Richland
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2017CP4007131

Shriners Hospitals For Children et al
PLAINTIFF(S)

Wells Fargo Advisors LLC et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled);
☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRCP; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

The Courts previous Order Denying the Motion of Default is vacated. Plaintiff's Motion for Default is to be handled by Judge Jocelyn Newman. Judge Robert Hood has further reviewed the file and has determined that he has a conflict with one of the parties.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 07/31/2018

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Richland Common Pleas

Case Caption: Shriners Hospitals For Children , plaintiff, et al vs Wells Fargo Advisors LLC , defendant, et al

Case Number: 2017CP4007131

Type: Order/Electronic Form 4

So Ordered

s/ R.E. Hood #2164

Electronically signed on 2018-07-31 11:21:49 page 3 of 3

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Richland
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2017CP4007131

Shriners Hospitals For Children et al
PLAINTIFF(S)

Wells Fargo Advisors LLC et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

Plaintiffs' Motion for Default Judgment (filed on July 27, 2018) is GRANTED. Therefore, Defendants Jessie Rowe Faircloth and Wells Fargo Advisors, LLC, are in default.

Plaintiffs' Motion to Reconsider, Alter and Amend (filed on July 30, 2018) is moot.

Defendants' Motion to Strike Plaintiffs' Amended Complaint (filed on July 30, 2018) is DENIED.

Defendants' Motion to Compel Arbitration or Dismiss (filed on February 1, 2018) is DENIED, as it is also moot.

Formal written order to follow.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 08/01/2018

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Richland Common Pleas

Case Caption: Shriners Hospitals For Children , plaintiff, et al vs Wells Fargo
Advisors LLC , defendant, et al
Case Number: 2017CP4007131
Type: Order/Electronic Form 4

So Ordered

Jocelyn Newman

Electronically signed on 2018-08-01 16:23:51 page 3 of 3

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

CASE NO: 2017-CP-40-07131

**SHRINERS HOSPITALS FOR
CHILDREN, DORRAINE LESTER, FRED
TOWNSEND, and HOWARD
TOWNSEND,**

Plaintiffs,

v.

**WELLS FARGO CLEARING SERVICES,
LLC d/b/a WELLS FARGO ADVISORS,
LLC, WELLS FARGO ADVISORS, LLC,
and JESSIE ROWE FAIRCLOTH,**

Defendants.

**DEFENDANTS' MOTION TO COMPEL
ARBITRATION AND TO DISMISS THE
AMENDED COMPLAINT OR, IN THE
ALTERNATIVE, TO STAY ACTION**

Pursuant to the Federal Arbitration Act, 9 U.S.C. § 1 *et seq.*, the South Carolina Arbitration Act, S.C. Code Ann. § 15-48-10 *et seq.*, South Carolina Rules of Civil Procedure 12(b)(3) and 12(b)(6), applicable common law and the written agreements by and between: (a) Decedent Kathlyn L. Leaphart ("Leaphart"), whose contractual rights are asserted by Plaintiffs in this action, and Defendant Wells Fargo Clearing Services, LLC d/b/a Wells Fargo Advisors, LLC ("WFCS"); (b) Plaintiff Dorraine Lester and WFCS; (c) Plaintiff Fred Townsend and WFCS; and (d) Plaintiff Howard Townsend and WFCS, Defendants hereby request that the Court enter an order (1) referring to arbitration all claims asserted in the Amended Complaint served on WFCS by Plaintiffs on July 6, 2018, and (2) dismissing or, alternatively, staying the

litigation of the claims asserted in the Amended Complaint; or, in the alternative, an order dismissing the Amended Complaint pursuant to S.C. R. Civ. P. 12(b)(6).¹

As grounds for the motion, Defendants shall rely on the facts established in the pleadings and papers of record in this action, the Affidavit of Michele R. Pevehouse (together with all exhibits thereto) filed with the Court on February 1, 2018 (the "Pevehouse Aff."), and a memorandum in support of this motion, together with all exhibits thereto, which it shall serve upon Plaintiffs prior to a hearing on its motion. Specifically, Defendants will rely on the Capital Resource Account Agreement (a copy of which is included as Exhibit B to the Pevehouse Aff.) to which Leaphart was a party. Plaintiffs' claims depend upon their status as third-party beneficiaries of the Capital Resource Account Agreement between WFCS and Leaphart. (*See* Am. Compl. ¶¶ 31-46.) That Agreement, which contains the terms of the contract between WFCS and Leaphart from which Plaintiffs seek to benefit, contains a mandatory arbitration agreement. The agreement provides for, *inter alia*, the arbitration of "all controversies which may arise between [WFCS and Leaphart] concerning any transaction or the construction, performance, or breach of this or any other agreement between us, whether entered into prior, on or subsequent to the date hereof." (Pevehouse Aff., Ex. B, p. 28 ¶ 15.) Because Plaintiffs are seeking to enforce rights arising from a contract subject to binding arbitration, their claims are likewise subject to mandatory arbitration.

¹ This Motion to Compel Arbitration and to Dismiss the Amended Complaint or, in the Alternative, To Stay Action is filed on behalf of all Defendants named in the Amended Complaint, including Wells Fargo Clearing Services, LLC; Wells Fargo Advisors, LLC; and Jessie Rowe Faircloth. The Court entered its Form 4 Order (with formal order to follow) denying Wells Fargo Advisors, LLC's and Jessie Rowe Faircloth's Motion to Compel Arbitration or Dismiss on August 2, 2018. In the same Form 4 Order, the Court entered default against Defendants Wells Fargo Advisors, LLC and Jessie Rowe Faircloth. Those Defendants join in this Motion with Defendant Wells Fargo Clearing Services, LLC so as not to waive their argument that their time to respond to the Amended Complaint has not yet expired (pursuant to S.C. R. Civ. P. 12(a)).

In addition, Plaintiffs Dorraine Lester, Fred Townsend, and Howard Townsend are each personally signatories to the WFCS Client Agreement ("Client Agreement"). (Pevehouse Aff., Ex. D.) The Client Agreement contains a mandatory arbitration agreement and compels the arbitration of "all controversies or disputes which may arise between you and WFA, ... concerning *any transaction* or the construction, performance or breach of this Agreement or any other agreement between us ... before, and only before, an arbitration panel set up by the Financial Industry Regulatory Authority ('FINRA') in accordance with its arbitration procedures." (Pevehouse Aff., Ex. D, p. 2 ¶ 5) (emphasis added.) In this dispute, which Plaintiffs contend arises from a "transaction" between WFCS and Plaintiffs, Dorraine Lester, Fred Townsend, and Howard Townsend are bound to arbitrate under the plain terms of their mandatory arbitration agreements with WFCS.

To the extent that the Amended Complaint does not rely—in form or effect—on the contract between WFCS and Leaphart, Defendants move, in the alternative, to dismiss the Amended Complaint for failure to state a claim under S.C. R. Civ. P. 12(b)(6). Plaintiffs fail to allege any facts supporting the existence of a duty owed by Defendants to Leaphart or to Plaintiffs from which their negligence claims could arise. Accordingly, Plaintiffs have failed to state a claim on which relief can be granted, and the Amended Complaint should be dismissed.

The undersigned has previously consulted with opposing counsel regarding the arbitration of these claims and has been informed that Plaintiffs decline to consent to the arbitration of their claims.

WHEREFORE, Defendants respectfully request that this Court enter an order that (1) refers to arbitration all claims asserted in the Amended Complaint served on WFCS by Plaintiffs on July 6, 2018, and (2) dismisses or, alternatively, stays the litigation of the claims

asserted in the Amended Complaint; or, in the alternative, an order that dismisses the Amended Complaint pursuant to S.C. R. Civ. P. 12(b)(6).

This 2nd day of August, 2018.

/s Stephen M. Cox
Stephen M. Cox
S.C. Bar No. 12263
scox@robinsonbradshaw.com
Brian L. Church
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Rock Hill, SC 29730
(803) 325-2900

Attorneys for Defendants

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Shriners Hospitals for Children; Dorraine
Lester; Fred Townsend; and Howard
Townsend,

Plaintiffs,

v.

Wells Fargo Clearing Services, LLC d/b/a
Wells Fargo Advisors, LLC; Wells Fargo
Advisors, LLC; and Jessie Rowe Faircloth,

Defendants.

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH JUDICIAL CIRCUIT

Civil Action No. 2017-CP-40-07131

**ORDER ENTERING DEFAULT AS TO
DEFENDANTS WELLS FARGO ADVISORS,
LLC AND JESSIE ROWE FAIRCLOTH**

This matter came before the Court for hearing on "Defendants' Motion to Compel Arbitration and to Dismiss," filed on February 1, 2018; "Plaintiffs' Motion for Default Judgment as to Defendants Jessie Rowe Faircloth and Wells Fargo Advisors, LLC," filed on July 27, 2018; and "Defendants' Motion to Strike Plaintiffs' Amended Complaint, Affidavit of Default, and Motion for Default Judgment," filed on July 30, 2018. The hearing on these motions took place at the Richland County Judicial Center on July 31, 2018, with counsel for all parties present.

For the reasons set forth below, Defendants' Motion to Compel Arbitration is DENIED AS MOOT; Plaintiff's Motion for Entry of Default is GRANTED; and Defendants' Motion to Strike is DENIED.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter began on November 27, 2017, with the filing of a Summons and Complaint against Defendants Jesse Rowe Faircloth and Wells Fargo Advisors, LLC (collectively referred to as the "Defaulting Defendants"). In January 2018, Defaulting Defendants accepted service through their attorneys. On January 31, 2018, Defaulting Defendants filed a Motion to Compel

(a) Pleadings. There shall be a complaint and an answer; and a reply to a counterclaim denominated as such; an answer to a cross-claim, if the answer contains a cross-claim; a third-party complaint, if a person who was not an original party is summoned under Rule 14, and there shall be a third-party answer, if a third-party complaint is served. No other pleadings shall be allowed, except that the court may order a reply to an answer or a third-party answer; and there may be a reply to affirmative defenses as provided in Rule 8(c).

Rule 7(a), SCRCP. By definition, a motion is not a pleading.

The South Carolina Supreme Court has examined this issue in the context of a motion to dismiss and a later amendment to a complaint. In *Bowers v. Robinson*, 311 S.C. 412, 429 S.E.2d 799 (1993), the plaintiff filed a complaint on September 25, the defendant filed a motion to dismiss on November 6, and the plaintiff filed a motion to amend the complaint on January 30. The Supreme Court found the motion to amend unnecessary and held:

We agree the motion to amend was not necessary. Rule 15(a) allows parties to amend their pleadings once as a matter of course at any time before or within thirty days after a responsive pleading is served. The motion to dismiss did not alter the time allowed to the plaintiff to amend his complaint as a matter of right.

Bowers, 311 S.C. at 414, 429 S.E.2d at 800. As a result, Plaintiffs had the right to amend the complaint and did so, thereby making the Amended Complaint the operative pleading.

It is well-settled in South Carolina that once an amended complaint has been filed, motions directed to the earlier pleading are moot.

Thus, any questions as to the sufficiency of the First Amended Complaint are now moot. Since responsive pleadings have not yet been filed to the Second Amended Complaint, no question of the sufficiency of that complaint is before us. Where the questions presented by an appeal are moot, the appeal will be dismissed.

Schein v. Lamar, 284 S.C. 252, 255, 325 S.E.2d 573, 574 (Ct. App. 1985). See also *Johnson v. Flakeboard America Ltd.*, 2012 WL 2237004 (D.S.C. March 26, 2012) (holding Defendant's prior similar motion to strike, filed before Plaintiff's Amended Complaint, was now moot). Therefore,

Defendant's Motion to Compel Arbitration and to Dismiss the original Complaint was rendered moot when Plaintiffs filed their Amended Complaint.

Defendants urge this Court to follow certain federal court decisions regarding application of federal rule 15 where it has been held that a response is not necessary to an amended pleading in some instances. However, Defendants' argument disregards the differences between the federal and state rules. South Carolina's version of the rule states, "[a] party **shall plead** in response to an amended pleading ..." Rule 15(a), SCRCP. In contrast, the corresponding federal rule refers to "**any required** response to an amended pleading ..." FED. R. CIV. P. 15(a)(3). In other words, the South Carolina rule is mandatory whereas the federal rule is not mandatory in all situations. South Carolina does not follow the construction of the Federal Rules of Civil Procedure where there is already South Carolina law. *Gardner v. Newsome Chevrolet-Buick, Inc.*, 304 S.C. 328, 330, 404 S.E.2d 200, 201 (1991).

Once the Amended Complaint became the operative pleading, Defaulting Defendants were required to respond within fifteen days. Plaintiffs filed their Amended Complaint on July 3. When calculating the time to respond, Defaulting Defendants were afforded five additional days because they were served by mail under the SC E-Filing Rule 4(e)(4). Therefore, Defendants were required to respond to the Amended Complaint by July 23, which Defendants failed to do. If a party has failed to "plead or otherwise defend" as provided by the South Carolina Rules of Civil Procedure, the defendant is in default. Rule 55(a), SCRCP.

South Carolina courts have characterized the entry of default as a ministerial matter. "Entry of default is a ministerial act which a clerk is required to perform once default is made to appear by the affidavit of the moving party." *Thynes v. Lloyd*, 294 S.C. 152, 153-54, 363 S.E.2d 122, 123 (Ct. App. 1987) (holding that "whether default was actually entered is of no consequence

since the entry of default is a purely ministerial act which the clerk was required to perform once the default was made to appear by the affidavit" of the moving party). Furthermore, an Order entering default is not necessary for the default to be effective. *See Stark Truss Co. v. Superior Const. Corp.*, 360 S.C. 503, 508–09, 602 S.E.2d 99, 102 (Ct. App. 2004).

Defaulting Defendants contend that their Motion to Compel Arbitration and Dismiss, which was filed in response to the original complaint, prevented them from being in default. However, that motion was mooted by Plaintiffs' filing of the Amended Complaint as set forth above.

Further, to the extent that Defaulting Defendants may argue that their Motion to Strike, prevented them from being in default, that argument also fails. Pursuant to *Stark Truss*, Defaulting Defendants' late filing of a Motion to Strike does not satisfy the "plead or otherwise defend" requirement of Rule 55(a) because the filing was not timely. The Court of Appeals held:

Although Appellants' late answer amounted to a "pleading" filed prior to entry of default, it did not comply with the time requirements of Rule 12(a), SCRCP. Appellants clearly failed to file an answer within thirty days of service of the summons and complaint upon them and they were technically in default. Thus, Appellants' answer was not a valid pleading or defense "as provided by" the Rules of Civil Procedure. A plain reading of Rule 55(a) allows entry of default when a pleading or defense is asserted in a manner noncompliant with the Rules of Civil Procedure. To hold otherwise would render the requirements in Rule 12(a), SCRCP, meaningless. We find the court's entry of default was proper.

Id. at 508–09, 602 S.E.2d at 102.

Other courts considering similar circumstances have reached the same conclusion.¹ A failure to respond to the operative pleading is a failure to plead or otherwise defend in the context of Rule 55(a). Defaulting Defendants failed to respond to Plaintiffs' Amended Complaint within the time period proscribed by Rule 15(a) and are, therefore, in default.

The effect of default is that Defaulting Defendants cannot contest the merits of the case until they are successful in lifting the default. For example, our Supreme Court has said, "If our courts were to allow a defaulting defendant to fully participate in a post-default hearing, we believe there would be no consequence of default." *Limehouse v. Hulsey*, 404 S.C. 93, 116, 744 S.E.2d 566, 578–79 (2013). "It is well settled that by suffering a default, the defaulting party is deemed to have admitted the truth of the plaintiff's allegations and to have conceded liability." *Roche v. Young Bros., Inc., of Florence*, 332, S.C. 75, 81, 504 S.E.2d 311, 314 (1998). "By defaulting, a defendant forfeits his right to answer or otherwise plead to the complaint. In essence, the defaulting defendant has conceded liability. However, a defaulting defendant does not concede the amount of liability." *Howard v. Holiday Inns, Inc.*, 271 S.C. 238, 242, 246 S.E.2d 880, 882 (1978).

IT IS, THEREFORE, ORDERED that Plaintiffs' Motion for Default Judgment as to Defendants Jessie Rowe Faircloth and Wells Fargo Advisors, LLC is GRANTED.

IT IS FURTHER ORDERED that Defendants' Motion to Strike Plaintiffs' Amended Complaint, Affidavit of Default, and Motion for Default Judgment is DENIED.

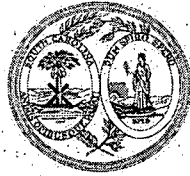
¹ A "failure to plead or otherwise defend" within the context of SCRCP 55(a) is either (a) a failure to respond to a pleading or (b) a failure to take appropriate and timely action following the filing of an initial responsive pleading. See *Stark Truss, supra* (holding default judgment appropriate where answer was filed late); *Sundown Operating Co., Inc. v. Intedge Industries, Inc.*, 383 S.C. 601, 681 S.E.2d 885 (2009) (holding entry of default and default judgment were proper for failing to file an answer to the summons and complaint); *Venture Engineering, Inc. v. Avery*, 2008 WL 9832815 (SC Ct. App. 2008) (holding default judgment against a party who failed to answer is only enforceable if amended complaint is properly filed).

IT IS FURTHER ORDERED that Defendants' Motion to Compel Arbitration and to Dismiss is DENIED AS MOOT.

AND IT IS SO ORDERED.

Jocelyn Newman
Presiding Judge

October 24, 2018
Columbia, South Carolina.



Richland Common Pleas

Case Caption: Shriners Hospitals For Children , plaintiff, et al vs Wells Fargo
Advisors LLC , defendant, et al
Case Number: 2017CP4007131
Type: Order/Entry of Default

So Ordered

Jocelyn Newman

Electronically signed on 2018-10-24 11:35:46 page 8 of 8

ELECTRONICALLY FILED - 2018 Oct 24 12:11 PM - RICHLAND - COMMON PLEAS - CASE#2017CP4007131

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

CASE NO: 2017-CP-40-07131

**SHRINERS HOSPITALS FOR
CHILDREN, DORRAINE LESTER,
FRED TOWNSEND, and HOWARD
TOWNSEND,**

Plaintiffs,

v.

**WELLS FARGO CLEARING SERVICES,
LLC d/b/a WELLS FARGO ADVISORS,
LLC, WELLS FARGO ADVISORS, LLC,
and JESSIE ROWE FAIRCLOTH,**

Defendants.

**AMENDED MOTION TO
RECONSIDER ENTRY OF DEFAULT
AS TO DEFENDANTS WELLS
FARGO ADVISORS, LLC AND JESSIE
ROWE FAIRCLOTH AND ORDER
DENYING MOTION TO COMPEL
ARBITRATION AND TO DISMISS,
OR, IN THE ALTERNATIVE STAY
ACTION**

Pursuant to S.C. R. Civ. P. 59(e), Defendants Wells Fargo Advisors, LLC ("WFA") and Jessie Rowe Faircloth submit this amended Motion to Reconsider the Entry of Default as to WFA and Faircloth and the Order Denying their Motion to Compel Arbitration and to Dismiss or, in the Alternative, Stay Action.¹ In support of this Motion, WFA and Faircloth allege and show the following:

I. PROCEDURAL HISTORY

1. Plaintiffs Shriners Hospitals for Children, Dorraine Lester, Fred Townsend, and Howard Townsend served their Summons and Complaint on January 2, 2018.

¹ WFA and Faircloth are amending their initial Motion To Reconsider solely to restate the arguments made in that Motion (which remains pending and is hereby amended) with respect to the Court's formal ruling of October 24, 2018. Otherwise, this Amended Motion is substantively identical to the initial Motion To Reconsider.

IT IS FURTHER ORDERED that Defendants' Motion to Compel Arbitration and to Dismiss is DENIED AS MOOT.

AND IT IS SO ORDERED.

Jocelyn Newman
Presiding Judge

October 24, 2018
Columbia, South Carolina.

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

CASE NO: 2017-CP-40-07131

**SHRINERS HOSPITALS FOR
CHILDREN, DORRAINE LESTER,
FRED TOWNSEND, and HOWARD
TOWNSEND,**

Plaintiffs,

v.

**WELLS FARGO CLEARING SERVICES,
LLC d/b/a WELLS FARGO ADVISORS,
LLC, WELLS FARGO ADVISORS, LLC,
and JESSIE ROWE FAIRCLOTH,**

Defendants.

**AMENDED MOTION TO
RECONSIDER ENTRY OF DEFAULT
AS TO DEFENDANTS WELLS
FARGO ADVISORS, LLC AND JESSIE
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DENYING MOTION TO COMPEL
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OR, IN THE ALTERNATIVE STAY
ACTION**

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I. PROCEDURAL HISTORY

1. Plaintiffs Shriners Hospitals for Children, Dorraine Lester, Fred Townsend, and Howard Townsend served their Summons and Complaint on January 2, 2018.

¹ WFA and Faircloth are amending their initial Motion To Reconsider solely to restate the arguments made in that Motion (which remains pending and is hereby amended) with respect to the Court's formal ruling of October 24, 2018. Otherwise, this Amended Motion is substantively identical to the initial Motion To Reconsider.

2. On February 1, 2018, WFA and Faircloth timely filed and served their Motion to Compel Arbitration and to Dismiss or, in the Alternative, Stay Action (“Motion to Compel Arbitration”). On July 26, 2018, WFA and Faircloth filed their memorandum in support of that motion. The memorandum explained that all of the causes of action contained in the Complaint were subject to binding arbitration. This Court scheduled WFA and Faircloth’s Motion to Compel Arbitration for hearing on July 31, 2018.

3. On July 3, 2018, Plaintiffs e-filed their Amended Complaint. The Amended Complaint did not add any new or different causes of action, but only dropped Plaintiffs’ claim for breach of contract. Thus, Defendants’ motion to compel arbitration filed with respect to the original Complaint applied with equal force to the Amended Complaint. Indeed, the Client Agreement between Plaintiffs Dorraine Lester, Fred Townsend, and Howard Townsend contains a mandatory arbitration agreement and compels the arbitration of “all controversies or disputes which may arise between you and WFA. . . .” (See Feb. 1, 2018 Motion to Compel). And despite eliminating their claim for breach of contract, Plaintiffs Amended Complaint still contains factual allegations demonstrating that the obligation on which they rely flows from putative contracts that are governed by the decedent’s agreement to arbitrate with WFA. (See Amended Compl. ¶ 13, 17-21, 27-28.) Accordingly, the elimination of any one cause of action had no effect on their obligation to arbitrate their claims against Defendants.

4. On July 27, 2018, Plaintiffs e-filed a motion styled as a “Motion for Default Judgment.” Because the Amended Complaint does not contain a statement of liquidated damages, however (or even a statement of any damages at all), the motion was actually one for entry of default under S.C.R. Civ. P. 55(a). The corresponding proposed Order that Plaintiffs submitted with their motion indicated as much—noting only that default would be entered against Defendants

WFA and Faircloth, not that default judgment in a particular amount would be entered and conclude the case.

5. On July 30, 2018, Defendants WFA and Faircloth e-filed their Motion To Strike Amended Complaint, which, among other things, contested Plaintiffs' attempt to have them held in default.

6. On July 31, 2018, this Court orally entered default against Defendants WFA and Faircloth and denied those defendants' Motion To Compel Arbitration as moot. The Court memorialized its decision in a Form 4 Order filed on August 1, 2018. That Form 4 Order noted that a "formal order would follow."

7. On October 24, 2018 the Court entered the formal Order promised in its August 1, 2018 Form 4 ruling. WFA and Faircloth are filing this Amended Motion To Reconsider to make it clear that all of the arguments that they made in their initial Motion To Reconsider are hereby restated with respect to the Court's October 24, 2018 Order. (The Court did not rule on the original Motion To Reconsider in its October 24, 2018 Order, so that Motion remains pending and is hereby amended).

II. DISCUSSION

For two separate and independent legal reasons, Defendants WFA and Faircloth urge this Court to reconsider its decision to enter default against them and to deny their Motion To Compel Arbitration (or To Dismiss) as moot. First, WFA and Faircloth did not "fail[] to plead or otherwise defend," as required to support entry of default under S.C. R. Civ. P. 55(a). Rather, they had filed their Motion to Compel Arbitration (which also sought relief pursuant to S.C. R. Civ. P. 12(b)(3)) in response to Plaintiff's initial Complaint. Substantial legal authority makes it clear that Defendants were not required to re-file that Motion in response to Plaintiffs' Amended Complaint.

Second, Rule 12(a) stayed the time for WFA and Faircloth to respond to the Amended Complaint until fifteen (15) days after this Court had ruled on their Motion To Compel Arbitration. Defendants acted within this time limit by filing their Motion To Compel Arbitration (in response to the Amended Complaint) on August 2, 2018. Defendants acted within that time period, and they are, therefore, not in default under the rules.

A. Defendants WFA and Faircloth were not required to refile their pending Motion To Compel Arbitration or To Dismiss in response to the Amended Complaint.

Rule 55(a) authorizes entry of default against a party only when it “has failed to plead or otherwise defend as provided by these rules” S.C. R. Civ. P. 55(a). South Carolina’s appellate courts have held that a party need not file a responsive pleading or even a Rule 12 motion in order to “otherwise defend” and avoid the entry of default. “The words ‘otherwise defend’ refer to the interposition of various challenges to such matters as service, venue, *and the sufficiency of the prior pleading*, any of which might prevent a default if pursued in the absence of a responsive pleading.” *Stark Truss Co. v. Superior Const. Corp.*, 360 S.C. 503, 508–09, 602 S.E.2d 99, 102 n. 1 (Ct. App. 2004) (quoting 10A Charles Allen Wright, Arthur R. Miller & Mary Kay Kane, *Federal Practice and Procedure* § 2682, at 16–17 (3rd ed.1989) (emphasis added)). Accordingly, the South Carolina Court of Appeals has held that parties that failed to file an answer or a Rule 12 motion, but rather filed a motion for summary judgment, were not in default under Rule 55(a). *Vista Investments, LLC v. Tompkins & McMaster, LLP*, No. 2013-001385, 2015 WL 5248737, at *1 (S.C. Ct. App. Sept. 9, 2015) (“Specifically, we find Respondents’ filing of a motion for summary judgment was sufficient to withstand default under the South Carolina Rules of Civil Procedure.”). The same reasoning applies, with equal force, to a Motion To Compel Arbitration or, in the alternative, To Dismiss under Rule 12 (which is what the Defendants filed here).

Plaintiffs do not deny that, by filing their Motion To Compel Arbitration or To Dismiss, Defendants WFA and Faircloth had “otherwise defended” themselves with respect to the *initial* Complaint. Rather, Plaintiffs maintain that Defendants were required to refile that motion with respect to the *Amended* Complaint. By not doing so, Plaintiffs argue, Defendants put themselves in default. Plaintiffs take this position even though their Amended Complaint did not contain any new or different causes of action. Indeed, all of the claims set forth in the Amended Complaint remained arbitrable pursuant to the authorities cited in Defendants’ motion.

Plaintiffs have not cited any state court authority in support of their argument that Defendants were required to refile their Motion To Compel Arbitration in response to the Amended Complaint, and undersigned counsel is aware of none. Substantial federal court authority, however, is flatly contrary to Plaintiff’s position. Indeed, as the leading commentator on the rules of civil procedure has observed:

[D]efendants should not be required to file a new motion to dismiss simply because an amended pleading was introduced while their motion was pending. If some of the defects raised in the original motion remain in the new pleading, the court simply may consider the motion as being addressed to the amended pleading. To hold otherwise would be to exalt form over substance.

6 Wright, Miller & Kane, *Federal Practice and Procedure*, § 1476, at 556-558 (3d ed. 2018).

Following this reasoning, numerous courts (including the federal district court here in South Carolina) have held that a defendant is not required to refile a motion to dismiss in response to an amended pleading. See *Patton Electric Co., Inc.*, 777 F.Supp. 704, 713 (N.D. Ind. 1991) (holding that defendants that had filed a motion to dismiss initial complaint were not in default for electing not to file a response to the amended complaint); *Stieglitz v. Stryker Corp.*, No. 2:15-CV-1680, 2016 WL 53829, at * 2 (D.S.C. Jan 4, 2016) (“A defendant is not required to file a new motion to dismiss simply because an amended pleading was introduced while its motion was

pending.”) (internal citations omitted); *Davis Liberty Mutual Ins. Co.*, No. 9:15-CV-2818, 2015 WL 6163243, at *2 (D.S.C. Oct. 19, 2015) (same); *Datastorm Technologies, Inc. v. Excalibur Communications, Inc.*, 888 F.Supp. 112, 114 (N.D. Cal. 1995) (considering motion to dismiss original complaint to be directed at amended complaint, without requiring defendant to refile the motion to dismiss); *Tao of System Integration, Inc. v. Analytical Services & Materials, Inc.*, 299 F.Supp.2d 565, 570 (E.D. Va. 2004) (“Defendants are not required to file a new motion to dismiss simply because an amended pleading was introduced while their motion was pending.”). Just this year, the Fifth Circuit Court of Appeals joined this chorus of authorities, rejecting a plaintiff’s argument that its amended complaint had “nullified” a pending motion to dismiss. “As explained in a treatise, and reiterated by several district courts in this circuit,” the Fifth Circuit explained, “defendants should not be required to file a new motion to dismiss simply because an amended pleading was introduced while their motion was pending.” *Rountree v. Dyson*, 892 F.3d 681, 683–84 (5th Cir. 2018) (quoting Wright & Miller, *supra*).

All of these courts have recognized that a position like that advocated by the Plaintiffs would force defendants to make unnecessary filings and would “exalt form over substance.” In light of the absence of any state court authority on this issue, the overwhelming federal court authority against Plaintiffs’ position, and the South Carolina Supreme Court’s guidance to look to cases interpreting the federal rules of civil procedure when considering our own state court rules, this Court should adopt the position of the federal courts and reconsider its decision to enter default against Defendants WFA and Faircloth. *See Maybank v. BB&T Corp.*, 416 S.C. 541, 565 (2016) (“In construing the South Carolina Rules of Civil Procedure, our Court looks for guidance to cases interpreting the federal rules[.]”)

B. Defendants had fifteen days following this Court’s denial of their Motion To Compel Arbitration to respond to the Amended Complaint.

As the foregoing authorities teach, Defendants' Motion To Compel Arbitration was not "nullified" by Plaintiffs' filing of their Amended Complaint, but remained effective with respect to that amended pleading. Pursuant to Rule 15(a), a response to an amended pleading is due "within the time remaining for response to the original pleading or within fifteen days after service of the named amended pleading, *whichever period may be the longer*, unless the court otherwise orders." S.C. R. Civ. P. 15(a) (emphasis added). The "longer period" here comes from Rule 12(a), which provides that the response to the original pleading is not due until "15 days after notice of the Court's action" denying the pending Rule 12 motion or postponing its disposition. S.C. R. Civ. P. 15(a).

Read together, Rules 12 and 15 stand for the common-sense proposition that a party that has timely filed a Rule 12 motion that has not yet been heard cannot be held in default. Accordingly, WFA and Faircloth's response to the amended pleading was not due until 15 days after this Court addressed their then-pending Motion to Compel Arbitration (which sought relief based on, among others, Rule 12(b)(3)). WFA and Faircloth acted within this time limit by refiled their Motion To Compel Arbitration (with respect to the Amended Complaint) on August 2, 2018.

C. Because the Defendants are not in default, their Motion To Compel Arbitration should be addressed on the merits.

For the foregoing reasons, the default entered against WFA and Faircloth should be set aside. And for the reasons set forth in Defendants' Motion To Compel Arbitration and supporting memorandum (which Defendants incorporate herein by reference), this Court should compel the arbitration of all of the Plaintiffs' claims.

III. CONCLUSION

For the foregoing reasons, Defendants WFA and Faircloth ask that this Court (i) reconsider (and set aside) its decision to enter default against such Defendants, and (ii) reconsider its denial of Defendants' Motion To Compel Arbitration as moot, consider that Motion on its merits, and compel the arbitration of all of Plaintiffs' claims.

This 29th day of October, 2018.

/s Stephen M. Cox

Stephen M. Cox

S.C. Bar No. 12263

scox@robinsonbradshaw.com

Brian L. Church

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Attorneys for Defendants

STATE OF SOUTH CAROLINA
COUNTY OF Richland
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2017CP4007131

Shriners Hospitals For Children et al
PLAINTIFF(S)

Wells Fargo Advisors LLC et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

Defendants' Motion to Reconsider Entry of Default (filed on August 8, 2018) and Amended Motion to Reconsider Entry of Default (filed on October 29, 2018) are DENIED.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 11/29/2018

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Richland Common Pleas

Case Caption: Shriners Hospitals For Children , plaintiff, et al vs Wells Fargo
Advisors LLC , defendant, et al

Case Number: 2017CP4007131

Type: Order/Electronic Form 4

So Ordered

Jocelyn Newman

Electronically signed on 2018-11-29 17:39:19 page 3 of 3

ROBINSON
BRADSHAW

February 8, 2019

bchurch@robinsonbradshaw.com
704.377.8166 : Direct Phone
704.339.3466 : Direct Fax

VIA FEDEX

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

Re: ***Shriners Hospitals for Children, et al. v. Wells Fargo Advisors, LLC et al.***
Appellate Case No. 2018-002275

Dear Ms. Kitchings:

Per the Court's request, enclosed for filing is the original and seven bound copies of **Appellants' Memorandum Addressing the Issue of Appealability** in the above case. Please file the original and return one stamped copy to us in the return envelope provided.

By copy of this correspondence, we are also providing a bound copy of the Memorandum to counsel for Plaintiffs.

Very truly yours,

ROBINSON, BRADSHAW & HINSON, P.A.

Brian L. Church

BLC/wkh
Enclosures

cc: Robert G. Rikard (w/encls.)
Peter D. Protopapas (w/encls.)
Rikard & Protopapas, LLC
PO Box 5640
Columbia, SC 29250

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